

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

O.A.No. 1650 of 1999

Dated: This the 29th day of January, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

1. BRAMHACHARI JAISWAR  
S/o RAM GARIB JAISWAR  
RESIDENT OF &-C KHUSHROOBAGH  
STREET LANE -POLICE STATION,  
KHULDABAD, DISTRICT-ALLAHABAD.
2. FARZAN AHMAD  
S/o HAFIZ MOHAMMAD IRFAN  
RESIDENT OF ATALA  
POLICE STATION KHULDABAD  
DISTRICT-ALLAHABAD

.....APPLICANTS

BY ADVOCATE : SHRI A.K.SRIVASTAVA

VERSUS  
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1. UNION OF INDIA THROUGH GENERAL MANAGER  
NORTHERN RAILWAY HEAD QUARTERS OFFICE  
BARODA HOUSE, NEW DELHI.
2. DIVISIONAL RAIL MANAGER,  
NORTHERN RAILWAY,  
ALLAHABAD DIVISION,  
ALLAHABAD.

.....RESPONDENTS

BY ADVOCATE : SHRI A.K. GAUR

O R D E R

By HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

This O.A. has been filed by the two applicants claiming the following reliefs:-

- (i) that this Hon'ble Tribunal may graciously be pleased to pass an order to the respondents to give an appointment to the applicants on the post of class IV or like post on which he had worked.
- (ii) to pass orders to the respondents to appoint the applicants in the Northern Railway, Allahabad Zone without any further delay.



.....2/-

- (iii) cost of this application to be awarded to the applicants.
- (iv) to pass any other order further orders which this Hon'ble Tribunal may deem fit and proper in the ends of justice.
- (v) issue an order to the respondents to regularisation to the applicants because the rights and privileges admissible to temporary Railway Servants as laid down in Chapter XXIII of the Indian Railways Establishment Manual, had not been given to the applicants.

2. It is submitted by the applicants that applicants were engaged in April 1979 and 1977 respectively and worked up to August 1980 and June 1979 respectively. Applicant No.1 had ~~to be~~ ~~in~~ 240 working days and both the applicants figured at Serial No.42 and 44 in the list of Casual Live Labour Register. Their grievance is that their services were terminated by an oral order in violation of Rule 2043 of IREM while juniors were given the work. They have further submitted that juniors to the applicant for example Mohd. Isa, Wahid Ali who had worked at Bharwari Railway Station as Class IV employees from 05.08.1983 to 09.08.1983 i.e. for 5 days. In 1991 ~~but~~ yet he was given work and today he has become senior to the applicant and is entitled for screening panel. Similarly Shri Krishna Kumar Tiwari who had worked from 01.06.1987 to 05.06.1987 was reengaged in 1989 and also in 1991 while not engaging the applicants. Therefore, they have been discriminated against, <sup>as such they are</sup> ~~and~~ are entitled for being appointed. They have, thus, prayed that the relief as prayed for may be given to the applicants.

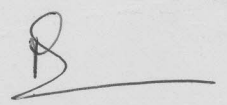
3. Respondents on the other hand have opposed this O.A, by submitting that last screening of waterman T & C was conducted for regularisation against Grade 'D' in the year 1990 with cut off date as 01.05.1988. At present there is no category in waterman T & C as such there is no requirement for screening / regularisation of waterman as more than 100 waterman are already available against supernumerary post. They have further



submitted that this O.A. is barred by limitation and no application has been filed even for seeking condonation of delay, therefore, this case needs to be dismissed. In view of the Judgment given by Hon'ble Supreme Court in the case of R.C. SHARMA reported in 2000(1) ATJ 178. They have thus submitted that this O.A. is liable to be dismissed.

4. I have heard both the counsel and perused the pleadings as well.

5. Even if averments made by the applicants are taken to be true, they had last worked with the department in 1980 and 1979 respectively thereafter their services were terminated. If applicants were aggrieved, they ought to have challenged the said order at that relevant time but no such effort was made by them. They have next contended that persons <sup>who were</sup> junior to them were re-engaged in 1989 and 1991. Even if that is accepted true then also at best their cause of action would have arisen in the year 1989-1991. As per Section 21 of A.T. Act 1985 period of limitation laid down is one year from the date of cause of action. Therefore, applicants should have filed the O.A. at least by ~~1990~~ 1993 but no such efforts was made by them. This O.A. has been filed in the year 1999. Applicants have not shown as to how any fresh cause of action had arisen in their favour in the year 1999. Therefore, definitely this case is barred by limitation. Applicants have not even filed any application seeking condonation of delay. In the case of R.C. SHARMA reported in 2000(1) ATJ 178 ~~1999~~ Hon'ble Supreme Court has held that where a case is barred by limitation, Tribunal cannot even look into the merits of the case nor can waive the delay unless it is specifically prayed for by seeking condonation of delay. The instant case is fully covered by the above said judgment, therefore, this O.A. is dismissed on the ground of being barred by limitation. No order as to costs.

  
Member (J)

shukla/-