

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 01st day of November, 2002

Original Application No. 1144 of 2002

Hon'ble Mrs. Meera Chhibber, Judicial Member.

Kamla Singh,
S/o Shri R.A.Singh,
IVth Class, A vagi peon,
Village Pilakhi, Post
Haldharpur, District Mau, (U.P.). . . . Applicant.

By Advocate : Dr. G.D.S.Mishra, Shri H.N.Pandey

Versus

1. Union of India through
General Manager, N.E.Railway,
Gorakhpur.
2. General Manager (Personnel)
N.E. Railway, Gorakhpur.
3. Divisional Railway Manager
(Karmik), N.E.Railway, Lucknow. . . Respondents.

By Advocate : Shri K.P.Singh

ORDER

Hon'ble Mrs. Meera Chhibber, Member-J

By this O.A., the applicant has sought the following
reliefs :-

- "i. That the Hon'ble Tribunal may kindly be pleased to
direct the respondent No.1 to consider the applicant's
grievances as contended in his representation dated
15.6.2002 and also give the joining to the petitioner/
applicant on the post of Avagi (Peon).



Contd....2.

- ii. That the Hon'ble Tribunal may kindly be pleased to quash the order No.Ka/227/14/Varg Char/Avagi Chaprasi) Mandal/VIII dated 10.8.2000 passed by the respondent No.1.
- iii. That the Hon'ble Tribunal may kindly be pleased to direct the respondents to give the back salary of the applicant from 19.10.1992 to till now and also award the seniority and other benefits for which the applicant deserves."

2. As per the applicant's own averments, he was appointed as Avagi Peon on 27.11.87 and worked upto 29.1.90. From 30.1.90 he could ^{not} attend the office as his mother was seriously ill. Thereafter, he rushed to his house without giving any information to the office. Thereafter, it is submitted by the applicant that he appeared before the respondent No.3 on 19.11.1992 informing him that his mother was seriously ill from 30.1.1990 to 24.9.1992. Therefore, the leave may be granted to him. The applicant was sent for medical. However, after medical was done, he was orally informed that he could not be given the work any more. Thereafter, it is submitted by the applicant's counsel that the applicant had been pursuing the matter with the Union and other authorities. Ultimately, he sent a representation through the Member of Parliament (Page-23) and vide letter dated 10.8.2002, the respondents informed Shri Balkrishna Chauhan (M.P.) Lok Sabha that Shri Kamla Singh Avagi Peon has been absent un-authorizedly from 30.1.1990. Therefore, ^{it will be} it not possible to take him back after 10 years. It is, this letter which has been impugned by the applicant. In Para-~~xviii~~ of the O.A., the applicant has stated that he has no knowledge about the letter dated 10.8.2000, and nor he was ever served with the termination order. Since the letter dated 10.8.2000 is issued without giving any opportunity of hearing to the applicant, the same is illegal and liable to be quashed.



Contd....3.

3. Shri K.P. Singh learned counsel for the respondents has explained that substitutes are engaged only for limited period, when some other persons ~~gone~~ on leave or due to such Administrative exigencies. Admittedly, the applicant had left the job on his own, without any information. Therefore, naturally he cannot claim re-engagement after ~~the~~^{long} lapse of time, whenever, he so desires. He has also taken preliminary objection to the maintainability of the O.A. itself on the ground that the letter dated 10.8.2000 is not ~~an~~ order, but ~~it~~ is only a reply given to the M.P. on the letter written by the said M.P. to the authorities. Therefore, this cannot be given any cause of action to the applicant. If the applicant was aggrieved about his ~~own~~^{own} termination, as alleged by him, in the year 1992, he should have approached the Court within one year or atleast within 19 months from the said dates. The applicant has filed this O.A. on 27.9.2002. He has thus submitted that the present O.A. is hopelessly barred by ~~period of~~ limitation and is liable to be dismissed on this ground alone.

4. I have heard learned counsel for both the parties and perused records.

5. There is nothing on record to show when the applicant was engaged and in what capacity. The applicant^{has} not even bothered to annex any document to show that how he was engaged in the absence of which he cannot ~~claimed~~ any thing as a matter of right. It goes without saying that one who comes to the Court must show prima-facie that there ~~exists~~^{is} right in his favour, if he wants ~~to~~ the Court to interfere in ~~the~~^{the} matter. In the ~~extent~~^{present} matter ~~accepted~~^{except} making ~~his~~^{bold} statement in the O.A., there is no document of any kind to show or support



the contention of the applicant. In any case as per the applicant's own averments, he was informed orally in the year 1992 that he would not be re-engaged any more therefore the respondent's counsel rightly pointed out ^{that B} ~~when~~ the cause of action, if any, arose in favour of the applicant ~~in~~ in the year 1992. Therefore, as per A.T.Act he should have approached the Court within one year thereafter. In case, no reply was being given on the representation made by him, at best he ~~should~~ should have approached this Tribunal within 18 months, but nothing was done by the applicant. I donot see any cause of action which accrues in favour of the applicant now in the year 2002, on the basis of which he could have filed the present O.A. I therefore, hold that this O.A. is hopelessly barred by ~~period of~~ limitation, therefore, the same is dismissed with no order as to costs at the admission stage itself.



Member-J

/pc/