

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated: This the 31<sup>st</sup> day of JANUARY 2008.

Original Application No. 1316 OF 2003.

Hon'ble Mr. K.S. Menon, Member (A)

1. Promod Kumar Srivastava, S/o Sri Rama Kant Srivastava, working as Chaukidar in Carpte Regional Office, Lucknow.
2. Durga Prasad Pandey, S/o Sri G.R. Pandey, working as Chaukidar in Govindpuram Design Center Bhopal at the front of RAF, Bhopal.
3. Chhedi Lal, working as Regional Carpet Store, Lekhraj, Jhoonsi, Allahabad.
4. Nand Lal, working as Chaukidar in Regional Office, Lucknow.

.....Applicants

By Adv: Sri B.P. Yadav

Versus.

1. Union of India through its Secretary, Ministry of Textile, New Delhi.
2. Development Commissioner (H), Ministry of Textile, West Block No. 7, R.K. Puram, New Delhi.
3. Assistant Director, D.C. (H) 1-A/3-A, Ram Priya Road, Allahabad.

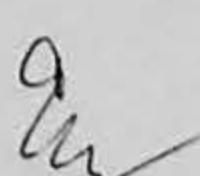
.....Respondents

By Adv: Sri S.K. Anwar

O R D E R

The applicants have filed this OA seeking direction of this Court to set aside the order dated 20.01.1992 passed by respondent No. 2.

2. The applicants states that they were working in the office of Development Commissioner (H), Ministry of Textile, Govt. of India as Chaukidar. They were



posted at training centers Regional Carpet Stores and were performing duties for 17 hours in a day since their date of their joining which they claim is beyond the prescribed working hours as laid down in the letter dated 27.11.1989 of Deputy Director (A&C) Field Administration Cell, Varanasi. The applicant states that they had made several representations jointly, but the respondents took no action. They have also cited the order of this Tribunal dated 23.08.1990 in which the respondents were directed to decide the representation dated 23.03.1987 of the applicants in that matter regarding overtime. The applicants however have not elaborated whether this case pertains to them or somebody else. They say that now despite their representation the respondents have now passed illegal and arbitrary order dated 20.01.1992. As per which overtime allowances were denied. Being aggrieved they have filed this OA on 16.10.2003. The applicants have also cited several other cases where the Court has directed the respondents to consider the case for payment of overtime allowances.

3. The respondents' counsel refutes the averments made by the applicant's counsel. His basic objection is that applicants have challenged the order dated 20.01.1992, this he says is barred by limitation. Besides the applicants have not annexed copy of the said impugned order dated 20.01.1992. He further submits that except for applicant No. 3 all the other

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three applicants are not within the jurisdiction of this Tribunal. Besides the impugned order dated 20.01.1992 does not pertain to the applicant in this OA, hence the OA is not maintainable. Respondents' counsel further submits that benefit of a judgment is not extended to a case automatically if the petitioner has approached the Court after a long delay the same may disentitled him to obtain a discretionary relief. In support of his contention he has cited **State of Karnataka Vs. Kotarayya [1996 (6) SCC 267]**. In view of this he submits that OA is barred by period of limitation as well as not maintainable hence requested that the OA be dismissed.

4. I have heard Sri B.P. Yadav learned counsel for the applicant and Sri S.K. Anwar learned counsel for the respondents and perused the records. Admittedly, this OA has been filed after a lapse of 12 years without any delay condonation application and, therefore, it can be said that the OA is barred by limitation. On the issue of merit it is a fact that the 03 applicants do not come under the jurisdiction of the CAT except applicant No. 3. The impugned order that the applicant sought to be quashed as per their relief clause is also not annexed to the OA besides as per submission made by the respondents' counsel that this impugned order does not pertain to the applicants in this OA. I am in agreement with the contention that relief granted to similarly placed applicants in

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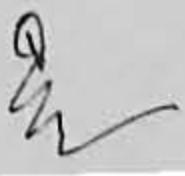
other cases cannot be cited by the applicants in this OA claiming similar relief specially after the case has been filed belatedly. In this connection I would like to refer to the following two Hon'ble Supreme Court rulings: (i) **A.P. Steel Re-Rolling Mills Ltd.**

**Vs. State of Kerala and others [2007 (2) SCC 725]**

wherein it has been held that the benefit of a judgment is not extended to a case automatically. While granting relief in a writ petition, the High Court is entitled to consider the fact situation obtaining in each case including the conduct of the petitioner. In doing so, the Court is entitled to take into consideration the fact as to whether the writ petitioner had chosen to sit over the matter and then wake up after the decision of the Supreme Court.

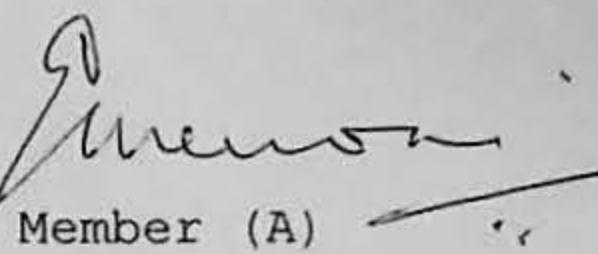
If it is found that the appellant approached the Court after a long delay, the same may disentitle him to obtain a discretionary relief, (ii) **and U.P. Jal Nigam and another Vs. Jaswant Singh and another [2006 (11) SCC 464]**

wherein it has been held that latches and delay has been considered to be an important factor in exercise of the discretionary relief under Article 226 of the Constitution. When a person is not vigilant of his rights and acquiesces with the situation, his writ petition cannot be heard after a couple of years on the ground that the same relief should be granted to him as was granted to a persons similarly situated who was vigilant about his rights and challenged his



retirement which was said to be made on attaining the age of 58 years.

5. In view of the above the OA is barred by limitation as well as not maintainable on merits. The OA is accordingly dismissed. No costs.



G. Munson  
Member (A)

/pc/