

17.04.2015

Hon'ble Mr. U.K. Bansal, A.M

Shri R.N. Joshi counsel for the applicant and Shri Dharmendra Tiwari proxy counsel for Shri R.K. Srivastava counsel for the respondents are present.

This matter relates to an initial prayer for regularization of casual labourer in Railways department. The O.A. was dismissed in default on 31.3.2010. The restoration application has been filed on 13.8.2014 i.e. after a delay of almost four and half years.

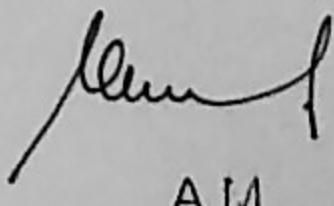
The counsel for the applicant states that applicant was kept in the dark by his earlier counsel regarding the status of the matter and also that the earlier counsel had drafted a restoration application which was never filed. He further states that the delay in this matter should be condoned in the light of an order of the Hon'ble Apex Court in *U.O.I Vs. Gyani (2011) 11 SCC 480*. In this order, it has been directed that while deciding the matter of condonation of delay, pragmatic justice, oriented approach is necessary where the court finds that it is a strong arguable case.

Learned counsel for the respondents states that the restoration application is highly time barred. The process of regularization of employees such as the petitioner was taken up in 2001 by the Railways and completed according to the extant instructions by 2007.

Learned counsel for the applicant intervenes and informs that the process was completed in 2005.

After listening to the arguments, the causes for delay in filing the restoration application are neither convincing nor acceptable. The application is being filed by a new counsel who has not obtained any no objection from the erstwhile counsel for the applicant. It is inconceivable that an applicant who has any interest in pursuing his plaint or legitimate cause would make enquires about the fate of his case after a lapse of four years.

Further the position relating to casual labourers has been explained in a preliminary manner by counsel for the respondents. By allowing this application we shall only be reopening a dead case in pursuing of which even the applicant's interest is at best doubtful. I do not find sufficient reason to restore this case, which has earlier been dismissed in default. The matter stands differentiated from the situation outlined by the Hon'ble Apex Court. Hence, the restoration application is dismissed.


A.M

Manish/-