OA/637/88

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXXXXXXXXXX~~

O.A. No. 632 to 640 OF 1988
~~XXXXXX~~ and O.A. 676 OF 1988

DATE OF DECISION 11/6/91

Smt. Sultanbai Dudha & Ors. Petitioners

Mr. C.D. Parmar, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent s

Mr. B.R. Kyada, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh, Administrative Member.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

O.A.No.632/88

Smt. Sultanbai Dudha,
Hindu aged adult occ.Nil
Via Dwarka,
To Vervala.

O.A.No. 633/88

Smt. Meguben Dewa,
Hindu, Aged about 24 years,
Via : Dwarka,
To: Varvala.

O.A.No. 634/88

Puriben Hada
Hindu, Aged about 25 years,
Via : Dwarka,
To : Vervala.

O.A.No. 635/88

Smt. Lakhma Natha,
Hindu Adult Occ.Nil
Via Dwarka
To: Vervala.

O.A.No. 636/88

Smt. Lakhma Dhuda,
Hindu Aged Adult Occ.Nil
Via : Dwarka,
To : Vervala.

O.A.No. 637/88

Smt. Emabai Sajan
Hindu, Adult, Occ.Nil
Via: Dwarka,
To: Vervala.

O.A.No. 638/88

Smt. Leelaben Kaya,
Hindu, Aged about 26 years,
Via: Dwarka,
To: Vervala.

O.A.No. 639/88

Raju Lakhmir,
Hindu, Aged about 25 years,
Via: Dwarka,
To: Vervala.

O.A.No. 640/88

Mrs. Jassibai Lakhmir,
Hindu Adult Occ.Present Nil
Via : Dwarka,
To: Vervala.

O.A.No. 676/88

Raniben Randhir
Hindu Aged Adult occ.Nil
Via: Dwarka,
To: Vervala. ..... Applicants.

(Advocate: Mr. C.D. Parmar)

VERSUS.

Union of India,
Owining and representing
Western Railway through:

1. The General Manager,
   Western Railway,
   Churchgate,
   Bombay - 400 020.

2. Chief Executive Engineer(Const.)
   Western Railway,
   Railway Station,
   Ahmedabad.

3. Executive Engineer (Const.)
   Western Railway,
   Kothi Compound,
   Rajkot - 360 001.

4. Executive Engineer (Const.)
   Western Railway,
   Jamnagar. ..... Respondents.

(Advocate : Mr. B.R. Kyada)

COMMON JUDGMENT

O.A.No. 632 to 640 OF 1988

and

O.A.No.676 OF 1988

Date: 11/6/91

Per: Hon'ble Mr. R.C. Bhatt, Judicial Member.

These ten applications under section 19 of the Administrative Tribunals Act, 1985, are heard together by consent of the learned advocate for the parties as they involve identical issues, and are being disposed of by a common judgment.

2. The applicants of these ten applications are casual labourers since 1983 in Western Railway. Some of the applicants were initially appointed by respondents on 5th October, 1983 while rest on 13th October, 1983 under P.W.I. (C)II Dwarka and then transferred to Rajkot as casual labourers. The applicants in these applications have challenged

what they called oral retrenchment/retrenchment orders dated 13th September, 1984 by the respondent No. 3 & 4 jointly and they prayed that the said order of retrenchment in each case be quashed and set aside and be declared as null and void being in violation of Section 25F, 25G & 25H of the Industrial Disputes Act and Indian Railway Establishment Manual para 2501(b)(i), 2512 & 2514 and further praying for direction to respondents to reinstate the applicants as permanent railway employee with full backwages and continuity of service.

3. The applicants have alleged in the application that they were appointed as casual labourer under P.W.I. (C) II Dwarka and then the applicants were transferred to Rajkot from 5th October, 1983/13th October, 1983 and continued in service upto 20th September, 1984. It is alleged in the applications that the final order was passed by respondents no. 3 & 4 on 13th September 1984 by which the applicants were orally retrenched without due process of law. That the applicants made representations to PWI(C) II Dwarka. It is further alleged in the applications that same retrenchment order was quashed by this Tribunal in O.A. 331/86 decided on 16th February, 1987. Each applicant has filed seperate application for condonation of delay in making this application alleging that the applicants could not file application earlier because of draught situation prevailing in the area in which the applicants reside since

three years and that the applicants had to look after their family having aged parents of poor health.

4. The respondents have filed written statement in each application and the contentions taken in all the written statement are identical. The respondents have taken the preliminary objection about the maintainability of these applications on the ground that the same are barred by limitation, that no cause of action has arisen in favour of the applicants because they have not exhausted alternative remedy available to them. The respondents have denied that the applicants were retrenched from service by oral termination. It is contended that the judgment on which the applicants rely is not applicable to the facts of the present case. It is also contended that this Tribunal has no jurisdiction to entertain this application as the applicants have not exhausted the alternative remedy available to them.

5. The respondents have contended that the applicants were engaged in the year 1983 for the completion of VOP Conversion Project (M.G into B.G.) Phase-II and as per the agreement made between the applicants and respondents, the applicants were engaged for specific time and period with a clear understanding that on the completion of the VOP Conversion Project, Phase-II work, the services of the applicants would be terminated without any notice

or compensation. The respondents have annexed with the written statement the copy of the said agreement as Annexure R-1. It is further contended that the work of VOP Conversion Project, Phase-II was completed in the middle of the year 1984 and therefore no labour strength was required by the organisation more and therefore without any work, the respondent were not in a position to keep the applicants and others and therefore as per the agreement at the time of taking the applicants in service, the service of the applicant were likely to be terminated without any notice but on the humanitarian ground, the respondents tried to search out the feasibility of any work existing for the applicants and other casual labourers on any other unit and it was found that Divisional Manager, Rajkot wanted labourers for maintenance work on Rajkot division and hence the applicants along with others were directed to work on Rajkot Division under Permanent Way Inspector, Surendranagar vide the office order dated 20th September, 1984, the copy of which is annexed by respondents and marked as Annexure R-2. It is further contended by the respondents that at the time of above shifting to Rajkot Division, the applicants willingly accepted this shifting of work from one place to another place and from one project to another project and therefore the question of shifting by Railway department does not arise, but the same was done in the interest of the applicants

to avoid retrenchment. The respondents contended that in some cases the Hon'ble High Court of Gujarat had also directed to find out work for such casual labourer in another division or department where the casual labourers should be transferred. The defence of the respondents is that the applicants were directed to work under Rajkot division of which their seniority were assigned but the applicants did not resume duty at Surendranagar and absconded from duty after 13th September, 1984 at their own accord and therefore it could not be said that the applicants were retrenched by the respondents authority because these applicants absconded from duty with effect from 13th September, 1984 and after about four years in order to take undue advantage of their own wish, the applicants are making allegations against respondents alleging that the respondents had passed oral retrenchment order. It is contended that the allegations made by the applicants are baseless inasmuch as there was no oral retrenchment order made by the respondents, but the applicants themselves did not work from 13th September, 1984 and the respondents are not at fault at all.

6. The respondents have denied that any representation was made by any of the applicant as alleged in the application either in writing or orally before PWI(C)II or before any other officer of the railway department and the respondents have called upon the applicants to produce the evidence in support of

said allegation. It is contended that the allegation in the application that the applicants had made representation before the respondents is got up one and illusionery.

7. The respondents have also filed reply to the applicants' application for condonation of delay and contended that all the averments made in the said application are incorrect and there is a delay of more than two years and six months in each application and no sufficient cause is showin in any application for condonation of delay and therefore all the applications reserve to be dismissed under section 21 of the Administrative Tribunals Act, 1985 alone. It is contended that all the applicants themselves were negligent in not making this applications in time and after getting the judgment in favour of some of the casual labourers in O.A. 331/86, the applicants now want to take a chance by taking resort to that decision. It is contended that there is no bonafides on the part of the applicants for getting condonation of delay and no ground has been made out in the application for condonation of delay which could be considered just, proper and reasonable and all the applications be dismissed.

8. The applicants of the application other than No. 636/88, 638/88 & 640/88 have filed rejoinder, contending that the agreement and

reengagement at Annexure R-1 & R-2

by the respo[n]dents are contrary to the law and there was

no valid agre[e]ment which could not be relied upon. The

applicants h[a]ve stated that their services were only

for VOP Phas[e] I. The applicants have contended that as

per the view [t]aken by the Gujarat High Court in many

cases, the ca[s]es of the applicants could not be retrenched

but the work [h]as been transferred to them to any other

project in w[h]ich construction work is going on.

It is conten[d]ed that the services of the applicants

were orally [t]erminated and were retrenched as per the

notice Annex[u]re R-1 issued by the respondents which

was not vali[d] and the applicants have cited many

decisions of [t]he Central Administrative Tribunal, High Courts

and the Hon'[b]le Supreme Court in their rejoinder. In

para 8(d) of [t]he rejoinder the applicants have

mentioned [t]he decision which emerge from

Court decisi[o]n of the Hon'ble Supreme

Court is under :

"[T]he respondents to offer a
[t]ransfer division to casual
[l]abourers as an alternative to resorting to
[t]ermination of services and it is open to
[t]he casual labourers to accept such transfer.
[T]his transfer, be done only on the
[b]asis that the position of the casual
[l]abourers in the originating division being
[f]illed up and then it has to be
[r]egularised as and when work is
[a]vailable in the originating division, the
[c]asual labourers accepting the transfer on a
[p]ermanent post retains his right to
[c]ontinue in the originating division."

9. The learned advocate for the applicants submitted that the oral order of retrenchment dated 13th September, 1984 by respondents No. 3 & 4 was in violation of Section 25F, 25G & 25H of the Industrial Disputes Act. It is important to note that the applicant in para-3 of the application referred to the retrenchment dated 13th September, 1984. Some applicant in their application have also referred to the retrenchment dated 13th September, 1984 as a written order. The respondents have catagorically denied of having passed any retrenchment order, written or oral against any of the applicants. The applicants have produced at Annexure A-1 their service card and at the back of this service card in each Annexure A-1 there is an endorsement "from 13th October, 1983 to 20.9.83 (FB) transfer to RJT division for XEN(C) I JAM letter No. VOP/JAM/E/165/1/L dated 13th September, 1984."This endorsement is date in some cases 19th September, 1984 and in some 20th September, 1984. This endorsement seems to have been construed as retrenchment by the applicants. The respondents have catagorically contended in the written statement in each case that there was no retrenchment order dated 13th September, 1984 as alleged by the applicant. The respondents have contended in the written statement that as per the initial agreement between the parties the applicants were engaged in the year 1983 for the completion of VOP Conversion Project and on the completion of that project the services of the

applicants were to be terminated, that the said project was completed in the middle of the year 1984 and no labour strength was required by the respondents any more and therefore without any work the respondents were not in a position to keep the applicanta snd others and the services of the applicants were likely to be terminated without any notice but on the humanitarian ground, the respondents tried to search out the feasibility of any work existing for the applicants and other casual labourers on any other unit and on demand from the Divisional Manager Rajkot for labourers for maintenance work of Rajkot Division, the applicants were directed to work on Rajkot division under Permanent Way Inspector, Surendranagar and that was the endorsement made on 20th September, 1984 at the back of the service card, Annexure A-1 produced by the applicants. The respondents have contended that from 13th September 1984 the applicants absconded and they did not resume duty at Surendranagar. The applicants have not mentioned any of these facts in the application. In rejoinder, they came with the story that the agreement and the reengagement notice produced by the respondents were not valid but they were illegal. The applicants in rejoinder have not met with the contentions taken by the respondents that the applicants did not join their work at Surendranagar. The applicants were directed to work under Rajkot division on which their seniority were assigned but they did not resume at

Surendranagar from 13th September, 1984 nor any representations were made thereafter by the applicants These are the question of fact which require the evidence of witness on either side. There is a serious challenge about the fact of retrenchment by respondents. The applicants in the rejoinder stated that the casual labourers are not to be retrenched and the work should be provided to them in any other project in which construction work is going on and relying on decision of the Hon'ble Supreme Court they have asserted that it is open to respondents to offer a transfer to another division to casual labour as an alternative to resorting to termination of service and it is open to such casual labourers to accept such transfer. The applicants have not given any explanation in rejoinder why they did not resume at Surendranagar.

The respondents have contended that the applicants had shown their willingness of shifting and had accepted the shifting of work from one place to another place and from one project to another project, but thereafter they did not resume at Surendranagar. This is a question of fact which requires to be considered on oral evidence of the witness of the applicants and the respondents. More over the applicants though alleged in the application that they made representation to the respondents, they have not produced any copy of such representation before this Tribunal. The respondents

have denied this allegation of the applicants about their representation contending that no representation has been made either orally or in writing, before PWI(C) II or any other officer of the railway department. This is also a disputed question of fact which require oral and documentary evidence of the parties.

10. The learned advocate for the respondents submitted that these applications are not maintainable before this Tribunal because the applicants have not exhausted the alternative remedy available to them before the Industrial Tribunal or Labour Court under the I.D. Act. He submitted that the applicants' main challenge in this application is about the violation of the provisions of Section 25F, 25G & 25H of the I.D.Act by respondents and therefore the remedy available to them is before the forum prescribed under I.D. Act, 1947 and not before this Tribunal.

11. The first question which goes at the root of these applications is whether the applicants who are seeking the relief under the provisions of the Industrial Disputes Act can invoke the jurisdiction of this Tribunal before exhausting the remedies available to them under the I.D. Act. In otherwords whether the Administrative Tribunals constituted under the Administrative Tribunals Act does exercise concurrent jurisdiction with the authorities constituted under the I.D. Act in regard to matters covered by

that Act. The learned advocate for the applicants submitted that the Administrative Tribunal in number of cases have treated the retrenchment order illegal and bad in law and such orders have been set aside being violative of Section 25F, 25G & 25H of the I.D.Act and Rule 77 of the Industrial Disputes (Central) Rules 1947 and the casual labourers have been reinstated in service with full backwages and hence this judgment should be followed by this Tribunal. The judgments cited before us by the learned advocate for the applicants are (1) Sukumar Gopalan & Ors. V/s. Union of India (Western Railway) & Ors. decided by this Tribunal on 16-2-1987, (2) Narayan Ala & Ors. V/s. Union of India & Ors., (1987) 4 ATC 179, (3) Surya Kant Raghunath Darole & Ors. V/s. The Divisional Railway Manager, Central Railway, Bombay, ATR 1988(1) CAT 158, (4) Madhu Dhola & Ors. V/s. Union of India & Ors.,ATR 1989(1) CAT 115,(5) Bhavansingh Babubha V/s. Union of India & Ors, 1988(8) ATC, 745, (6) Raj Singh V/s. Union of India & Ors. 1 (1988) ATLT (CAT)(SN) 107, (7) Popat Sidic V/s. Union of India & Ors. (1988) 8 ATC 845,(8) J.V. Chakoo V/s. Union of India & Ors. 1987(30 ATC 413, (9) Raimal Kaloo V/s. Union of India & Ors., CAT Ahmedabad Bench, 1987(5) SLR p. 359, (10) Pariaswamy Karuppan & Ors. V/s. Union of India & Ors. AIR 1989(1) CAT, p.378. However, the latest decision on the question of the jurisdiction of the Administrative Tribunal with respect to the case covered under the Industrial Disputes Act has been

pronounced by the five members Bench of the Central Administrative Tribunal in A.Padmavally & Anrs. V/s. C.P.W.D. & Ors. reported in III(1990)CSJ(CAT)384(FB). The law is laid down in paras 38 and 39 of this judgment. They read as under :

> "38. In the Rohtas Industries case the decision in Premier Automobiles case was cited with approval and it was held that if the I.D. Act creates rights and remedies it has to be considered as one homogeneous whole and it has to be regarded as unoflato. But it was made clear that the High Court could interfere in a case where the circumstances require interference. This is clear from the following observation in regard to exercise of jurisdiction under Article 226 :
>
> > "This court has spelt out wise and clear restraint on the use of this extraordinary remedy and the High Court will not go beyond those wholesome inhibitions except where the monstrosity of the situation or exceptional circumstances cry for timely judicial interdict or mandate. The mentor of law is justice and a potent drug should be judiciously administered."
>
> In our view, one such situation would be where the competent authority ignores statutory provisions or acts in violation of Article 14 of the Constitution. Further, where either due to admissions made or from facts apparent on the face of the record, it is clear that there is statutory violation, we are of the opinion, that it is open to the Tribunal exercising power under Article 226 to set aside the illegal order of termination and to direct reinstatement of the employee leaving it open to the employer to act in accordance with the statutory provisions. To this extent we are of the view that alternate remedy cannot be pleaded as a bar to the exercise of jurisdiction under Article 226."
>
> "39. However, the exercise of the power is discretionary and would depend on the facts and circumstances of each case. The power is there but the High Court/Tribunal may not exercise the power in every case. The principles of exercise of power under Article 226 have been clearly laid in the case of Rohtas Industries by Krishna Iyer, J. cited above. Issues No.2 and 3 are answered accordingly."

..... 16/-

Then follows the conclusions of the Larger Bench in para 40 of the judgment as under :

"(1) The Administrative Tribunals constituted under the Administrative Tribunals Act are not substitutes for the authorities constituted under the Industrial Disputes Act and hence the Administrative Tribunal does not exercise concurrent jurisdiction with those authorities in regard to matters covered by that Act. Hence all matters over which the Labour Court of the Industrial Tribunal or other authorities had jurisdiction under the Industrial Disputes Act do not automatically become vested in the administrative Tribunal for adjudication. The decision in the case of Sisodia, which lays down a contrary interpretation is, in our opinion, not correct.

(2) An applicant seeking a relief under the provisions of the Industrial Disputes Act must ordinarily exhaust the remedies available under that Act.

(3) The powers of the Administrative Tribunal are the same as that of the High Court under Article 226 of the Constitution and the exercise of that discretionarypower would depend upon the facts and circumstances of each ase as well as on the principles laid down in the case of Rohtas Industries (supra).

(4) The interpretation given to the term 'arrangements in force' by the Jabalpur Bench in Rammoo's case is not correct."

It is clear from the above that the jurisdiction of the Tribunal in a challenge under I.D.Act is by discretion to be confined to such cases as may fall within the guidelines of para 38 and 39.

12. Previous to the decision in Padmavalley's case (supra), several benches of the Central Administrative Tribunals took different views about the jurisdiction

of the Central Administrative Tribunal with regard to the cases coming before them under the provisions of Industrial Disputes Act. The decisions of the Central Administrative Tribunal, relied upon by the learned advocate for the applicant, are the cases decided prior to the decision of this Padmavalley's case. Therefore, those decisions about jurisdiction of this Tribunal and on merits will not help the applicant. In our opinion, now the latest decision given by the Central Administrative Tribunal consisting of larger bench of five members in Padmavalley's case will prevail. The larger bench, while considering the various decisions of the different benches of the Central Administrative Tribunal expressing different views and giving different judgments in past about the jurisdiction of the Central Administrative Tribunal with regard to the cases coming before them involving the provisions of the I.D.Act, observed that the Industrial Disputes Act is a comprehensive piece of legislation made in 1947 and polished in the course of time providing for the investigation of the settlement of Industrial Disputes. For the settlement of industrial disputes, Industrial Disputes Act has made elaborate provisions. The gamut of disputes contemplated is wide and covers almost all kinds of act which may arise between the parties. It is also observed in this decision that the machinery under the I.D. Act is not compelled to decide matters by applying law, that they have got wide powers to give awards on issues referred to them creating some times new

..... 18/-

rights to the parties. If such matter is brought to this Tribunal, this Tribunal can not give such reliefs. It is also further observed that the concurrent jurisdiction of this Tribunal and the machinery under the I.D. Act not only will shatter the machinery forget for the preservation of industrial peace but will also bring anamolous results. For instance under the I.D.Act the Labour Court in case of dismissal or removal has got the discretion under section 11(A) to set aside the order of discharge or dismissal and direct reinstatement of workman on such terms and conditions, if any as it deems fit or give such other relief to the workman including the award of lesser punishment in lieu of discharge or dismissal as the circumstances of the case be required. Such a power is not exercised by this Central Administrative Tribunal. Therefore, if one case is brought to the Labour Court and another case of similar nature is brought before this Tribunal, patent differences in decision is likely to emerge. Even otherwise conflict of decisions will occur and will remain if this Tribunal and the Industrial Disputes Machinery work side by side and if decisions are given on similar matters by both the forums, if the decision by the forum under the I.D.Act is not brought for scrutiny before this Tribunal. Thus as per the latest decision of larger bench in Padmavalley's case (supra) applicants before us seeking a relief under the provisions of the I.D.Act must ordinarily exhaust the

remedies available under that Act and this Tribunal does not exercise concurrent jurisdiction with the authorities in regard to matters covered by the I.D.Act. The matters over which the Labour Court or the Industrial Tribunal or other authorities have jurisdiction under the I.D. Act do not automatically become vested in the Administrative Tribunal for adjudication. Chapter III of the I.D. Act refers to the reference of disputes to Tribunals and other forums. Chapter IV refers to procedure, powers and duties of authorities. The conciliation officers are appointed for the purpose of enquiry into any existing or apprehended industrial disputes and Section 11-A deals with powers of Labour Courts, Tribunals and National Tribunals to give appropriate relief in case of discharge or dismissal of workmen. Industrial Disputes (Central) Rules 1957 also deal with the procedure of reference of Industrial Disputes before Labour Courts, Tribunals and National Tribunals etc. and also these rules deal with the power and duties of the conciliation officers, Labour Courts, Tribunals, National Tribunals etc. It is not in dispute that the applicants seek relief under the provisions under the I.D. Act and Rules and it is also not in dispute that they have not exhausted the remedies available under that Act before the said forum. Therefore, this Tribunal having no concurrent jurisdiction in regard to these matters over which Industrial Tribunal has jurisdiction, these

applications will not be maintainable before this Tribunal.

13. The learned advocate for the applicant has also cited the decision in L.Robert D'souza V/s. Executive Engineer, Southern Railway & Ors.,(1982) 1 SCC 645. We respectfully agree with the ratio of the said decision in which the action of the authorities was challenged under the provision of Industrial Disputes Act. Another decision cited in Narotam Chopra V/s. Presiding Officer, Labour Court & Ors. 1989 supp(2) SCC 97, in which it was held that the Labour Court erred in awarding only one month's pay in lieu of period of notice of retrenchment and compensation and while reinstating the workman the provision of Section 25F of I.D.Act was considered. We respectfully agree with the said decision. But the question before us is whether we can exercise the concurrent jurisdiction with the authorities provided under the I.D. Act and in view of the Padmavalley's case (supra) we cannot exercise concurrent jurisdiction therefore the decisions of the Administrative Tribunals on which learned advocate for the applicants rely cannot help the applicants.

14. The next question is whether we should exercise our discretion in terms of the guidelines of paras 38 & 39 of the Padmavalley's judgment (above.. In the instant cases, all the applicants have only produced the copy of the service card at Annexure A-1 and no other document is produced. There are many disputed question of fact

which require detailed oral and documentary evidence on both the sides. The respondents have specifically denied of any retrenchment order being passed by the respondents against the applicants. Examining even Annexure A-1, it is clear that it was the direction asking the applicants to work on Rajkot division under PWI Surendranagar. There is another contention of the respondents that the applicants had entered into an agreement with respondents in 1983 when they were engaged in the work of VOP Conversion Project, which was for a specific time and period and as the said project was completed in the middle of the year 1984 as the labour strength was required by the organisation more the authorities was not in a position to keep the applicants and others in view of the said agreement which is challenged by the applicants on the ground that it is not legal. There is yet another factual aspect in dispute, the respondents have contended that at the time of shifting to Rajkot division the applicant had willingly accepted the shifting of work from one place of another place and from one project to another project and the applicants in rejoinder have not controverted that contention of the respondents but have only stated that the applicants service were not only for VOP Phase II work only. The other factual question to be examined on oral evidence of witnesses of both parties would be

whether the applicants were provided with the work in the other project in which construction work was going on and whether the applicants after having accepted the other work at Surendranagar did not resume from 13th September, 1984 as contended by the respondents. Another disputed fact is that according to the applicants they had made representation to the respondents about the alleged retrenchment while respondents have contended that there was no representation made at any time by the applicants. Therefore all these questions of facts require detail oral and documentary evidence of the witnesses of both the parties without which the points involved in these cases can not be decided. More over the exercise of the power under Article 226 of the Constitution is discretionary and having regard to the facts of these cases we hold that these are not the cases where we should exercise discretionary power under Article 226 of the Constitution.

15. The applications before us were submitted by the Tribunal at the time of admission subject to limitation. There is a delay of more than two years and six months in each cases. The applicants have filed application for condonation of delay on the grounds mentioned in the application in each cases. The learned advocate for the applicants had cited decisions in Union of India V/s. Baburam Lalla, AIR 1988 SC 344, State of Punjab V/s. Ajit Singh, 1988(1) SLR (Punjab & Haryana) p.96, and other cases. The learned

advocate for the applicants submitted that if the termination order is a nullity then no question of limitation arises. The learned advocate for the respondents submitted that the grounds mentioned in the application for condonation of delay are all baseless and none of the grounds mentioned in the application was amounts to sufficient cause for condonation of delay under section 21(3) of the Administrative Tribunals Act. He also submitted that the applicants have merely taken a chance after about four years in filing this application after having come to know about one decision in favour of the casual labourers by the Bench of the Central Administrative Tribunal in O.A. 331/86. He submitted that there was negligence and inaction on the part of the applicant and their conduct of sitting silent for over four years shows want of bonafides on the part of the applicants. The learned advocate for the respondents relied on the decision in 1986(4) SLR p.504, in the case of Mohammad Rafi V/s. Union of India & 2 Ors. and also relied on the decision in N.I. Mathai V/s. Union of India & Ors., 1987(3) SLR 391. We do not propose to go into merits of these applications regarding condonation of delay since we hold that the applicants should exhaust the remedies available to them under the I.D. Act before the forum

under that Act. We hold that these applications are not maintainable before this Tribunal having regard to the guidelines laid down in the decision in Padmavalley's case (supra).

16. The result is that the applications shall stand dismissed as not maintainable. The applications are dismissed as not maintainable with no orders as to costs.

Sd/-
(R.C.Bhatt)
Judicial Member

Sd/-
(M.M.Singh)
Administrative Member

Prepared by : 08/07/91
Compared by : 8/7/91

TRUE COPY

08 July/91
(K.B. SAVE)
Section Officer (J)
Central Administrative Tribunal
Ahmedabad Bench