

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. NO. 439 of 1990
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DATE OF DECISION 14.6.1994.

Shri D.V.Simon Petitioner

Shri G.K.Badheka Advocate for the Petitioner (s)

Versus

Union of India and ors. Respondent

Shri R.M.Vin Advocate for the Respondent (s)

CORAM

The Hon'ble Mr. N.B.Patel : Vice Chairman

The Hon'ble Mr.K.Ramamoorthy : Member (A)

JUDGMENT

1. Whether Reporters of Local papers may be allowed to see the Judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

No

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Shri D.V.Simon,
Adult, Residing at
C/o.V.L.Simon,
Wallacepur, P.O.Sanodar,
Dist. Bhavnagar.

...Applicant

(Advocate : Mr.G.K.Badheka)

Versus

1. The Union of India,
Owning and representing
Western Railway,
Through : The General Manager,
Western Railway,
Churchgate,
Bombay.
2. The Divisional Railway Manager,
Western Railway,
Bhavnagar Division,
Bhavnagar Para.
3. The Bridge Inspector,
Western Railway,
Bhavnagar Division,
Bhavnagar Para.

...Respondents.

(Advocate : Mr.R.M.Vin)

JUDGMENT
O.A.No. 439 OF 1990.

Date : 14th June, 1994.

Per : Hon'ble Mr.K.Ramamoorthy : Member (A)

Vide OA/439/90, the applicant has approached the Tribunal seeking relief for setting aside the order No.EE/615/15, dated 27.5.1990, of the DRM (E), of Western Railway, Bhavnagar. He has further sought relief of immediate reinstatement with all other consequential benefits. Written submissions were submitted by the advocates from both the sides.

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2. As a result of the direction issued by the Tribunal on 14.12.1989, the DRM, Bhavnagar Para, has passed the impugned order on the representation of the applicant dated 11.1.1990.

3. At the outset it is clear that the matter relates to a grievance which arose on 31.8.1976, as a result of a "discontinuance" of the applicant's services by the Railways. The Railways have, however, contended that there was no question of discontinuance of the services by the Railways since the applicant himself had left the services on his own accord w.e.f. 31.8.1976. The applicant had first approached this Tribunal in 1989, vide OA/338/89, but even at that time the case of the applicant was time-barred because of limitation. The only reason adduced by the applicant then for this delayed application was the fact of continuous representations and personal contacts till 24.6.1989. It is a settled position of law that continuous representations with the authorities will not set at naught the law of limitation. In 1976, when the cause of action arose, the matter was within the jurisdiction of the High Court and even with the establishment of the Tribunal also, the Tribunal can not go into a matter which went back in a period of time to 1976 as in the present case. The fact that the Tribunal itself had asked the respondents to consider their representations will not take away this fact of limitation.



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4. Regarding the facts of the case itself, the applicant's case is that the distinction being made by the Railways as between project and non-project work is not a material difference. The fact that the applicant was employed on a specific project work is not fully established and he should be given temporary status of work based on the total number of days that he had put-in. On the facts of this case, the Railways themselves have agreed that the applicant had put-in more than 180 days. While maintaining distinction between project work and non-project work and also maintaining the position that the applicant was working on the project work only, the Railways have nevertheless offered him further chance of a temporary assignment and have continued to carry his name on the live register at sl.no.234 which ensures his eligibility for re-engagement in future as per his turn.

5. In the written arguments, it has been stated by the applicant that he had not received the appointment order as stated by the Railways and that he was prepared to go to work any where.

6. The fact of the earlier engagement of the applicant by the Railways, has not been denied and the fact of his entitlement for future engagement having also been accepted, the offer made earlier should continue to stand. The respondents are, therefore, directed to extend this offer for the engagement of the service of the applicant in a similar manner even now. Specific intimation of this offer may be sent by Regd. post and action to engage the applicant may be taken by the Railways within a period of two months. Such engagement together

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with the continuance of the name of the applicant on the live register will be sufficient to meet with the requirements of this particular case.

7. The applicant himself having allowed such a long period to lapse, the question of payment of back wages for non-engagement by the Railways till now does not arise.

With the above directions, the application is disposed of with no order as to costs.



(K.Ramamoorthy)
Member (A)



(N.B.Patel)
Vice Chairman

A.F.