

CENTRAL ADMINISTRATIVE TRIBUNAL

~~PRINCIPAL BENCH, DELHI~~
AHMEDABAD BENCH

(7)

O.A No. /86/91 with
~~K.A. No.~~ M.A./71/90

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~~xxx~~

DATE OF DECISION 4.7.1991

Shri Mangalsinh Prabhatsinh Jadeja Petitioner

Mr.C.D.Parmar

Advocate for the Petitioner (s)

Versus

Union of India & Ors.

Respondent

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

JUDGMENT

Shri Magalsinh Prabhatsinh Jadeja,
Near Gopal Chowk,
Jamnagar Navagam Shed
(Advocate: Mr.C.D.Parmar)

: Applicant

Versus

Union of India
through:

1. The General Manager,
Western Railway,
Churchgate, Bombay.
2. Divisional Railway Manager,
Western Railway,
Kothi Compound,
Rajkot.
3. Executive Engineer(C)
Western Railway,
Jamnagar.
4. P.W.I.,
Western Railway,
Mehsana.

: Respondents.

(Advocate: Mr.B.R.Kyada)

ORAL JUDGMENT

O.A./86/91
with
M.A./71/90

Date: 4.7.1991

Per: Hon'ble Mr. M.M.Singh

: Administrative Member

1. In this application under Section 19 of the Administrative Tribunals Act, 1985 the threshold question is regarding delay in filing it.

2. The respondents have not filed their reply. We have heard learned counsel ~~for~~ Mr.C.D.Parmar for the applicant and Mr.B.R.Kyada, learned counsel for the respondents. At the outset it should be stated that even though reply has not been filed by the respondents, it is the duty of the respondents to prove their own contentions by ~~the liable~~ ^{reliable evidence by} achievement.

3. The applicant, according to his own showing in the "applicant's record of service" Annexure A/1 produced by the applicant, had left on 2.8.1985. This last spell of engagement according to this record is from 2.7.1985 to 2.8.85. The application registered with this Tribunal on 15.2.1990 and has been filed about after three years and 290 days of the expiry of one year from the date of cause of action namely 2.8.1985 which is identified

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by Mr.C.D.Parmar, learned counsel for the applicant, as the date of cause of action. We notice from the application also that the applicant was conveyed an oral order of retrenchment on 2.8.1985. During the submissions, Mr.Parmar stated that the applicant was sick, gave notice of sickness, asked for leave and all these papers including the service cards of the applicant is not with the applicant, In the Original Application as well as in the Misc.Application for condonation, There is no averment about the applicant having lost primary evidence which alone could support of his contention that he is the railway servant, was engaged for the periods mentioned in the above application. When such primary evidence have not been produced nor the explanation entered into the M.A. and O.A. about why it is not entered, we are at a loss to understand how the applicant has not been able to supply information about his record of service.

4. As the satisfactory evidence about his service particulars not produced and explanation about why the same is not produced not entered, the prayer for condonation of delay for 3 years and 290 days mentioned in the application cannot be allowed.

5. In view of the above, the delay cannot be condoned and the Misc.Application has to be dismissed. The Misc. Application dismissed, the O.A. has to be rejected. The O.A. as well as the Misc.Application are finally disposed of.

R.C. Bhatt
(R.C.Bhatt)
Judicial Member

M.M. Singh
(M.M.Singh)
Administrative Member