

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A.NO.55 OF 1993

HON'BLE MR.JUSTICE K.M.AGARWAL, CHAIRMAN
HON'BLE MR.V.RAMAKRISHNAN, VICE CHAIRMAN

Shri Chandrasinh H.Jadeja
21C, Mochinagar Co-op.Hsg.Soc.
Ashapuri Krupa, Jamnagar Road
Rajkot.

: Applicant

(By Advocate: Shri P.H.Pathak)

Versus

Union of India
Notice to be served through
Divisional Railway Manager
Western Railway
Kothi Compound, Rajkot.

: Respondent

(By Advocate: Mr.N.S.Shevde)

O R D E R

Date:17.6.98

Hon'ble Mr.Justice K.M.Agarwal:

By this O.A., the applicant claims temporary status and absorption in regular class IV service with the respondents.

2. The applicant says that initially in 1980, he was employed by the respondents as a Waterman for hot weather season and continued to be so employed during hot weather every year till 1986 . Thus, he had completed more than 360 days service with the respondents.

Jm He complains that over-looking his claim for temporary

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status and regularisation in service, his juniors with lesser number of service days were regularised by order dated 06.2.1990 and, therefore, he made several representations for his regularisation and temporary status, but failed in getting favourable response. Hence he filed the said O.A. for the said reliefs.

3. The respondents are resisting the claim of the applicant, inter alia, on the ground of limitation.

4. As for limitation, the learned counsel for the applicant submitted that the representation of the applicant was rejected on 26.5.1992 and from that date, the O.A. was within time.

5. The contention deserves to be rejected. Within a year from the date the applicant was last in service, he should have filed the O.A. If statutory representation was available to him, that should have been filed within time, i.e., within the period of limitation prescribed for the purpose, or within a year from the date of cause of action. That was not done and, therefore, his claim for temporary status is barred by time. Similarly his alleged juniors were employed by order dated 6.2.1990, as alleged in paragraph 4 of the O.A. Within a year from that date, neither this O.A. was filed, nor any representation made. Delayed or successive representations would not

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save the period of limitation. Accordingly as held by the Supreme Court in S.S.Rathore v. the State of Madhya Pradesh, AIR 1990 S.C.10, the claim is barred by time.

6. As mentioned in the first document consolidatedly marked as Annexure A-2, Shri Chandrasinh Jadeja was in the traffic Department whereas the persons mentioned in the other documents marked as Annexure 2A consists of names of labour in Engineering Department. Shri Chandrasinh Jadeja appears to be senior to the applicant, whereas the seniority of others in Engineering Department cannot be looked into vis-a-vis the applicant as he was not in Engineering Department but was in the Traffic Department. It also appears that after 1986, the applicant did not offer his services during the subsequent years of hot weather and therefore, he could not be considered for regularisation. Lastly, it appears from the documents marked as Annexure A-3 by the applicant that temporary status was to be given to the persons who had completed 120 days of service after 1985 pursuant to Railway Board's letter No.E/NG/II/83C.L./117 dt.25.1.85. This was not complied with by the applicant and, therefore, he cannot claim temporary status or regularisation in service pursuant to the said letter dated 25.1.1985.

Ym.

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7. For the foregoing reasons, we find no merit in this O.A. Accordingly, it is hereby dismissed. No costs.

Agarwal
17.6.98

(K.M. Agarwal)
Chairman

Ramakrishnan
17/6/1998
(V. Ramakrishnan)
Vice Chairman

Sr.No. 39/99

Dated: 26/11/99

Submitted: Hon'ble Vice Chairman &

Hon'ble Mr. V. Radhakrishnan, Member (A)

Hon'ble Mr. P.C. Kannan, Member (J)

Hon'ble Mr. A.S. Sanghvi, Member (J)

Certified Copy of order dated 5/11/99 in CA/
Spl.C.A. No. 589/5880 of 99 passed by the
Supreme Court/ High Court against the Judgment/ Oral Order
passed by this Tribunal in OA/ 55/93 is placed for perusal
please.

26/11

S.O. (J)

D.R. (J)

Hon'ble Vice Chairman

Hon'ble Mr. V. Radhakrishnan, Member (A)

Hon'ble Mr. P.C. Kannan, Member (J)

Hon'ble Mr. A.S. Sanghvi, Member (J)

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

Off. : Sardar Patel Stadium,
P.O. : NAVRANGPURA,
NAVRANGPURA,
Ahmedabad - 380 009.
Date : 02.01.1995

Subject : Holidays to be observed during 1995 - reg.

A list each of the closed and restricted holidays to be observed by the Central Administrative Tribunal, Ahmedabad Bench during 1995 is forwarded herewith for favour of information.

Encl. : As above.

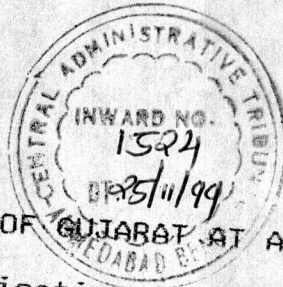
(B.S. SHANKAR)
DEPUTY REGISTRAR(A).

Copy to : -

1. The Registrar, Central Administrative Tribunal, P.B., New Delhi.
2. Deputy Registrars of the Benches of Central Administrative Tribunal
3. The Registrar, High Court of Gujarat, Ahmedabad.
4. The Secretary, High Court of Gujarat Bar Association, Ahmedabad.
5. The Standing Council for Central Government, Ahmedabad
6. Notice Board, C.A.T., Ahmedabad Bench, Ahmedabad.
7. Notice Board, High Court of Gujarat, Ahmedabad.
8. The Secretary, Administrative Tribunal Practitioners Association, Ahmedabad.
9. P.S. to Hon'ble Vice Chairman/Members, C.A.T., Ahmedabad Bench.
10. Deputy Registrar(A & J), C.A.T., Ahmedabad Bench.
11. Section Officers and court officers.
12. File No. 1/15/Estt/JA/bad/

URGENT

89



Decree Despatch No. 36773
Date 5/11

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD
Special Civil Application No 5880 of 1999

1. CH JADEJA

1. UNION OF INDIA

Vs

Petitioner

Respondent

To

1. UNION OF INDIA
DIVISIONAL RAILWAY MANAGER,
WESTERN RAILWAY,
KOTHI COMPOUND,
RAJKOT.

2. THE CENTRAL ADMINISTRATIVE
TRIBUNAL, STADIEM ROAD, A. BAD.
(REF. O.A.NO.55/93).

Upon reading the petition of the above named Petitioner presented to this High Court of Gujarat at Ahmedabad on 06/08/1999 praying to grant the prayers and etc.....

And Whereas Upon hearing
MR PH PATHAK for the Petitioner no. 1
MR UM SHASTRI for the Respondent no. 1
Court passed the following order :-

CORAM : J.N.BHATT AND H.K.RATHOD, JJ.
DATE : 14.10.1999

Mr. Pathak, the learned advocate appearing
.....There shall be no order as to costs.

(COPY OF THE ORDER/JUDGEMENT IS ATTACHED HEREWITH)

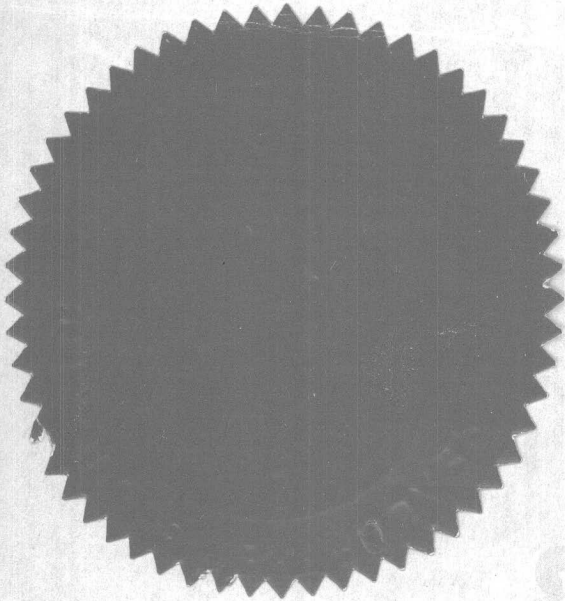
Smt Rsm
And
26/11/99

Witness CHUNILAL KARSANDAS THAKKAR, Esquire Acting Chief Justice at Ahmedabad
aforesaid this 14th day of Oct, 1999.

By the Court

For Deputy Registrar
This 32 day of Nov 1999

Note : This writ should be returned
duly certified within 2 weeks.
(610) 021119



IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 5880 of 1999

CH JADEJA
Versus
UNION OF INDIA

Appearance:

MR PH PATHAK for Petitioner
MR UM SHASTRI for Respondent No. 1

CORAM : MR. JUSTICE J.N. BHATT and
MR. JUSTICE H.K. RATHOD
Date of Order: 14/10/1999

ORAL ORDER

Mr. Pathak, the learned advocate appearing for the petitioner has, while challenging the order recorded by the Central Administrative Tribunal, Ahmedabad in O.A. No. 55 of 1993 and the order passed in review application, submitted that the observations made in the impugned review order are unwarranted and since the petitioner intends to pursue alternative remedy, may come in the way of the merits and, therefore, the the Tribunal should not have expressed any opinion on the merits of the case.

Mr. Shastri, the learned advocate for the respondent has rightly not controverted the legal position that in case of dismissal or rejection of any matter on the ground of limitation or technical ground like territorial jurisdiction, the Court should not embark upon the detailed inquiry or discussion on the points involving merits of the matter. This proposition of law is very well enunciated and beautifully explained

by the apex Court in case of Tin Plate Co. of India Ltd. versus State of Bihar and Others reported in AIR 1999 SC 74.

Obviously, the proposition of law is very well settled and clear that the Court or tribunal when proposes to dispose of any matter on technical ground like limitation, jurisdiction or availability of alternative remedy, should not discuss or examine the merits of the case. In our opinion, the observations pointed out and impugned in the review order should, therefore, not come in the way of merits being appreciated and examined and adjudicated in alternative available, permissible legal remedy and forum. With these observations, this ^{petition} ~~appeal~~ is required to be dispose of as no further order is warranted. Hence this ^{petition} ~~appeal~~ is disposed of. Notice is discharged. There shall be no order as to costs.

14.10.1999.

sdl
(J.N.Bhatt, J.)

sdl
(H.K.Rathod, J.)

Vyas

TRUE COPY
Deputy
ASSISTANT
THIS
RECEIVED
DATE OF

CENTRAL ADMINISTRATIVE TRIBUNAL, DELHI

Application No. CA/55/93 of 19

Transfer application No.

Old Writ Pet. No.

CERTIFICATE

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated: 26/6/98

Countersigned:

~~Section Officer/Court Officer.~~

27 Dec 98
30/6/98


Signature of the
Dealing Assistant.

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
AHMEDABAD

CAUSE TITLE

CA/55/93

NAME OF PARTIES

Shri C. H. Jadeja

VERSUS

402

SR NO

DESCRIPTION OF DOCUMENTS

PAGE

CA

1-18

Reply

19-22

Affidavit

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Order dt 17/6/98 (4 pages)

SEA/5880/99 from HLC

oral order dt 14/10/99

Inw. No 1524/99 dt 25/11/99

Four pages