

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK.

O.A. No.360 of 1988.

Date of decision - January 23, 1990.

Babaji Maharana,
S/o Baraju Maharana,
Village and P.O.Jagatsinghpur,
District-Cuttack
Worked as Gangman(casual)
under Open Line Permanent Way
Inspector, S.E.Railway,
Jajpur-Keonjhar Road, Dist-Cuttack.

... Applicant

Versus:

1. Union of India, represented by General Manager, S.E.Railway, 11 Garden Reach Road, Calcutta- 43.
2. Senior Divisional Engineer (Open Line), S.E. Railway, Khurda Road, P.O.Jatni, District-Puri.

... Respondents

For Applicant - Mr. Ramanath Das

For Respondents - Mr. Ashok Mohanty,
Standing Counsel (Railways).

CORAM :

HONOURABLE MR. N. SENGUPTA, MEMBER (JUDICIAL)
AND

HONOURABLE MISS USHA SAVARA, MEMBER (ADMN.)

1. Whether reporters of local papers may be allowed to see the judgment ? Yes.
2. To be referred to the Reporters or not ? No.
3. Whether Their Lordships wish to see the fair copy of the judgment ?

JUDGMENT.

N. SENGUPTA, MEMBER (J). In this application under section 19 of the Administrative Tribunals Act, 1985 the reliefs prayed for are for absorbing the applicant in the previous post of Gangman on the basis of his service and other consequential reliefs.

2. The facts of this case lie in a narrow compass. Admittedly, the applicant was working as a casual Gangman way back in 1970-71. He worked as such for 359 days. Thereafter he was not given further employment under the S.E.Railway where he was working. Later he made representations to the concerned authorities of the S.E.Railway to appoint him as a casual gangman but no orders were passed on his representations which commenced from August, 1971 and continued upto the year 1987, though on the last of his representations of the year 1987 on 29.7.87 the P.A. to the Additional General Manager made an endorsement and forwarded the representation to the Senior Divisional Engineer, S.E.Railway, Khurda Road for verification and appropriate action.

3. The respondents in their counter have averred that the casual labourers from amongst the retrenched staff of the Division as well as of the Units were appointed under the Permanent Way Inspector, Jajpur-Keonjhar Road, after screening, in the monsoon patrolling for ~~the~~ specified periods during the years 1985-86 and 1987-88, but the applicant never turned up or offered himself for such appointment. Therefore, by mere making representations, the applicant would not be entitled to any consideration. The respondents have taken the plea of bar of limitation.

IV

4. We have heard Sri R.N.Das, learned counsel for the applicant and Sri Ashok Mohanty, learned Standing Counsel for the Railway Administration. Mr.Das has vehemently contended that having regard to the status of the applicant and the predicament in which he was, nothing more than making representations was possible on his part and the Railways should not take shelter under the technical plea of bar of limitation. On the other hand, it has been contended by Mr. Mohanty that the bar of limitation in the instant case is absolute inasmuch as the cause of action, if any, arose much prior to three years anterior to the coming into force of the Administrative Tribunals Act, 1985 and further that the others who have been working as casual gangmen are not better off than the applicant. Therefore, the applicant cannot deserve a better consideration than the others who have been similarly situated. Under section 21 of the Administrative Tribunals Act, a specific bar of limitation has been prescribed and a Tribunal is to enforce the law as it is, there is little scope for deviation. ~~In any circumstance~~ As it appears from the annexures filed by the applicant, he had been making representations during the years 1971 to 1975 at ~~thereafter~~ rather regular intervals and till upto 1987 no representation appears to have been made by him. The receipt of these representations has been denied by the Railway Administration but that is of no consequence in the context of facts of this case. Law is now well settled that making of successive representations does not arrest running of time for the purpose of filing an application. Therefore, the representations by themselves would not save limitations unless of course one was considered on merits and rejected which is not the

V

case here. Therefore, the applicant's claim is barred by limitation.

5. Since it is not disputed that the applicant worked as a casual gangman for almost a year, the number of days being 359, if permissible under the rules, the Railway Administration may consider his case with sympathy. With these observations, the application is disposed of. Parties to bear their respective costs.

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M. Faras,
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23.1.90
MEMBER (ADMINISTRATION)

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M. E. Upali
23.1.90
.....
MEMBER (JUDICIAL)

