

3
CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH: CUTTACK

Date of order: 14-09-2010

PRESENT:

THE HON'BLE MR.C.R.MOHAPATRA, MEMBER (A)

In the Matter of:

O.A. No.470/2010

Manas Ranjan Parida ... Applicant

Versus

Union of India & Ors. ... Respondents

(For Full details, see the enclosed cause title)

.....
For Applicant: Mr. D.K.Mohanty, Counsel,

For Respondents: Mr.S.K.Ojha, SC.
.....

ORDER

MR. C. R. MOHAPATRA, MEMBER (A):

Heard Mr. D.K.Mohanty, Learned Counsel for the Applicant
and Mr. S.K.Ojha, Learned Standing Counsel (Railway) appearing for the
Respondents and perused the materials placed on record.

2. It is seen from the record that alleging non-consideration of
their cases for engagement/appointment in the Railway, being the retrenched
substitutes, the Applicant along with others earlier approached this Tribunal in
OA No. 524 of 2007. It was noticed by this Tribunal that the Applicants
approached this Tribunal without availing of the opportunity of making
representation in this regard. Hence this Tribunal in order dated 14.1.2008
disposed of the Original Application advising the applicant to approach the
concerned authorities by making proper representation putting forth their
grievance and the authorities/respondents were advised, in the event such
representation was received, they should take a decision on the said
representation and dispose of the same in a reasoned order within a period of
three months. The order under Annxure-A/5 dated 28.5.2008 rejecting the
claim is the out come of the consideration given to the representation

4
- 2 -

submitted by the applicant dated 22.2.2008 in terms of the order of this Tribunal. Being aggrieved by such order of rejection under Annexure-A/5 he has approached this Tribunal in the present OA filed under section 19 of the A.T. Act, 1985 individually, seeking the following relief:

- “(i) To quash the order of rejection under Annexure-A/5 dated 28.5.2008;
- (ii) To direct the Respondents to discontinue the practice of engaging outsider on substitute basis;
- (iii) To direct the Respondents to engage the applicant as substitute in the clear vacancies from time to time, when the permanent or temporary staff remain either on Earned Leave or temporary Sick Leave/Leave or other wise;
- (iv) To issue any other order/orders as would meet the ends of justice.”

Relevant portion of the order under Annexure-A/5 is quoted herein below:

- “2. You have stated in the instant OA that you had been registered as Substitutes on 22.7.72 and you were engaged as Substitute T.P. and you have made allegations that the senior persons were engaged ignoring your cases. Such allegations are not tenable either in fact or in law.
- 3. From OA as well as from your joint representation dated 27.2.08 which was submitted in obedience to the Hon’ble Tribunal’s directions contained in the said OA No. 524/07 order dated 14.1.08 has also been considered from which it transpires that:-
 - 3.1. That in obedience to the Hon’ble Tribunal’s directives dt. 14.01.08 the records of the office of Respondent No.3 has been verified in connection with your registration as Substitute in the Year’72. But, it transpires from the available Office Records, your names are not appearing on the records in support of your contentions regarding registration engagement etc.
 - 3.2. That it is also verified from the available records of Resp.Nos.4&5 and found that no supporting document/Registers are available as contended by you in OA.
 - 3.3. That no records are showing that you are the registered substitutes of Rly. According to your contention, when you had been registered in the year 72 as substitute in Optg.Dept, then till today you have failed to represent the Administration and moreover, after lapse of more than 36 years, now you are claiming that you had been registered in Optg.Dept. as Substitute seeking engagement. It is found absurdity for such averments.

There is no supporting document available in support of your Registration in Rly. Organization as Substitute in Operating Department.

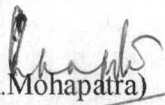
- 3.4. That you had **been remained silent for more than 36 years and now agitating that you had been registered in the Year'72 which is far from truth** and it cannot be established that after 36 yrs., you had been registered in Rly. Organization.
- 3.5. That apart from the above, it is seen that similar grievance (of similarly placed persons) in the matter of OA 362 to 396/02 has been adjudicated before the Hon'ble Tribunal in which after considering the pros and cons dismissed the aforesaid OA.
- 3.6. Further, your joint representation dated 27.2.2008 has also been considered carefully along with the contentions raised in the subject OA and it is found that no tangible evidences are available that you are the registered substitutes of Rly Organization. Therefore, your representation deserves no consideration and is hereby rejection on merit.
- 3.7. Thus, in view of the aforesaid facts and disclosure your alleged claim is quite more than 36 years old and no substantial records identifies that you are the registered substitutes of Rly organization. Therefore, your claim for substitute engagement in Optg.Dept. cannot be considered at this belated stage as there is no record in Rly in support of your contention about registration of your names as Substitutes. Hence your claim is hereby rejected on merits."

3. For the reason stated in the order of rejection, the same needs no interference by this Tribunal in view of the decision of the Hon'ble Apex Court in the case of **C.JACOB v DIRECTOR OF GEOLOGY AND MINING AND ANR**, AIR 2009 SC 264 in which it has been held by the Hon'ble Apex Court that if the representation made to Authority is on the face of it is stale, or does not contain particulars to show that it is regarding a live claim, courts should desist from directing consideration of such claims. When a direction is issued by a Court/Tribunal to consider or deal with the representation, unusually the directee (person directed) examines the matter on merits, being under the impression that failure to do may amount to disobedience. When an order is passed considering and rejecting the claim or representation, in compliance with direction of the court or tribunal, such an

6

-4-

order does not revive the stale claim, nor amount to some kind of acknowledgement of a jural relationship to give rise to a fresh cause of action. (paragraph-7) Every representation to the government for relief, may not be replied on merits. Representations relating to matters which have become stale or barred by limitation, can be rejected on that ground alone, without examining the merits of the claim. From the facts of the present case it reveals that the applicant is not vigilant, rather grossly indolent. Hence no interference in the order of rejection is called for. For the discussions made above, this OA stands dismissed at this admission stage. No costs.


(C.R. Mohapatra)
Member (Admn.)