

**CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA**

NO.146 of 1996

**PRESENT : HON'BLE MR. S.K.MALHOTRA, ADMINISTRATIVE MEMBER
HON'BLE MR. G. SHANTAPPA, JUDICIAL MEMBER**

1. Gunadhar Bishal
2. Ram Chandra Dolai, and
3. Radha Gobinda Adhikary : Applicants

VS.

Union of India, through

1. General Manager
South Easter Railway, Garden Reach
Calcutta 700043
2. The Chief Personnel Officer (Admn.)
South Eastern Railway, Garden reach
Calcutta 700043
3. Block Signal Inspector
South Eastern Railway, Panskura
4. Block Signal Inspector
South Eastern Railway, Santragachi
PO ; Jagacha, Dist: Howrah : Respondents

For the Applicant : Mr. A. Chakraborti, Counsel

For the Respondents : Ms. S. Banerjee

Dated of hearing : 11 -4-2005

Date of pronouncement: 19-4-2005

ORDER

Hon'ble Shri G. Shanthappa, M(J) :

The above OA is filed u/s.19 of the AT Act seeking the following reliefs:-

- a) Declaration that the applicants are entitled to be regularized with effect from 1-4-1973 against PCR posts as some employees of the erstwhile



Construction unit and very much juniors to the applicants in service have been regularized with effect from 1-4-1973.

- b) An order directing the respondents to regularize the service of the applicants w.e.f.1-4-73 enabling them to acquire qualifying service for pensionary benefits, and
- c) Leave may be granted to add the other applicants in the original application under 4(s)(a) of the CAT(Procedure)Rules.

2. The brief facts of the case are the applicants were initially appointed in the year 1967 and 1968 in PWI and subsequently they attained temporary status in the year 1981 and absorbed in the open line. The applicants 1 and 3 are working in BSI, Panskura and Applicants No.2 is working BSI, Santragachi. At the time of absorption in the open line they submitted their original certificates cards in their controlling unit. As per the Railway Board's letter dated 24.12.1973, it was decided that 40% of temporary non-gazetted posts in each grade in Construction Department should be sanctioned permanently as construction reserve from 1.4.1973. Initially the applicants were appointed in the Construction Department. Some of the staff who were on rolls as on 1.4.73 and completed 3 years of continued service are entitled to be regularized w.e.f.1-4-73 and some of the staff are regularized as per the letter dated 26-8-86.

3. Some of the applicants approached this Tribunal in O.A.NO.1185 of 89, O.A.835 of 92 on the basis of the direction of this Tribunal in O.A.1278 of 93, the juniors to the applicants were regularized in service w.e.f.1-4-73. The applicants have approached the respondents by submitting their representation dated 2-12-1995 requesting them to grant regularisation w.e.f.1-4-1973.

Immediately they have approached this Tribunal in the present OA on 30-1-1996.

The applicants are entitled for the benefit of orders of this Tribunal and the relief was granted partially.

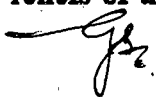
4. Per contra the respondents have filed representation made in the OA.

5. The respondents have admitted the services particulars of the applicants. As per the Chief Engineer letter dated 26-4-1989 the concerned casual labourers should be on rolls of the Construction organization as on 1-4-73 and they should have rendered 3 years or more casual service as on 1.4.73. Earlier the applicants were engaged in construction unit but not in open line. The applicants were transferred to open line after 1973 but before 1986. The persons who are in open line hold lien in the construction department from the date of transfer. Similarly situated persons had approached this Tribunal in different OAs and obtained orders and accordingly they were regularized w.e.f.1-4-73. The main ground for dismissing the OA is, application is barred by limitation; the applicants cannot ask for the relief as the cause of action arose 3 years prior to CAT came into existence. Hence the applicants are not entitled for the relief as prayed and the OA is liable to be dismissed.

6. We have heard ld. counsel for the applicants and the respondents and perused the pleadings and documents. The main ground of the respondents regarding maintainability of the OA, when cause of action arose on 1-4-73, the applicants submitted their representation on 2-12-95 on the ground that their juniors have got the order for regularisation on 27-2-95 as per the directions of this Tribunal. Hence the limitation commenced from the date on which their juniors got regularisation. Hence there is no delay in approaching the Tribunal.

7. We carefully examined the contention of either side on the admitted facts the applicants joined the service initially in Construction unit and they were absorbed in open line unit. Their grievance is for regularisation of their services w.e.f.1-4-73 under the Railway Board order against PCR post under construction unit.


8. This Tribunal has granted relief to the juniors of the applicants since they had filed OA.1185/99 and OA.1278/98. As per the directions they were regularized. The said order was issued on 27-2-95. The cause of action arose as per the reliefs of the OA was on 1-4-1973 i.e. prior to 3 years from the date of



existence of the Tribunal. The applicants cannot agitate their rights on the cause of action prior to 1982. The applicants had approached the respondents on 2-12-95 which was belated and they have filed the present OA on 30-1-96. In a similar circumstance, this Tribunal has rejected the OA on the grounds of limitation in OA.304 of 97 ON 7-12-04. Under the provisions of Section 21(2)(a) the grievance i.r.o. the applicant is filed and cause of action arose prior to 3 years immediately preceding the date on which the Tribunal was constituted, is beyond the purview of this Tribunal.

9. On the admitted facts, the contentions of the applicants cannot be considered that the application is well within the period of limitation.

10. Since the application is filed on the cause of action arose on 1-4-1973 ie., prior to 3 years from the date of the CAT came into force, this Tribunal has no jurisdiction to entertain such a relief in this application. Accordingly we dismiss the OA as not maintainable and the Tribunal has no competence, and jurisdiction to go in to the aspects. Accordingly, the OA is dismissed.


(G. Shanthappa)
Member(Judl.)

sk


(S.K. Malhotra)
Member(Admn.)