

CENTRAL ADMINISTRATIVE TRIBUNAL

ADDITIONAL BENCH

CALCUTTA

O.A.No.: 258/96

Date of Decision: 19th JUNE-2001.

Gobinda Chandra Mandal, son of A.C.Mondal, village & P.O. Harv, District : Midnapore, Pin : 721 131.APPLICANT.

By Advocate :- Mr. B.C.Sinha.

Vs.

1. Union of India through the Secretary, Ministry of Railways, Rail Bhavan, New Delhi-110 001.
2. The General Manager, South Eastern Railway, Garden Reach, Calcutta-700 043.
3. The Chief Commercial Manager, South Eastern Railway (Commercial), Strand Road, Calcutta-700 001.
4. The Chief Personnel Officer (Commercial), South Eastern Railway, 14, Strand Road, Calcutta-1.
5. The Senior Divisional Personnel Officer, South Eastern Railway, Kharagapur Division, District : Midnapore.

.....RESPONDENTS.

By Advocate :- Mr. S.Sen.

C O R A M

HON'BLE MR. JUSTICE S.NARAYAN, VICE-CHAIRMAN.
HON'BLE MR. L.R.K.PRASAD, MEMBER (ADMINISTRATIVE)

O R D E R

JUSTICE S.NARAYAN, V.C.:- The applicant, claiming to have worked as Ticket Checking Volunteer under South Eastern Railway from 1st August, 1983 to 30th November, 1983, has prayed for direction upon the respondents to regularise his service and to absorb him in Class-IV category in the Railways. Much emphasis was put that since the benefit as such has been extended to some similarly situated incumbents in the case of Union of India Vs. Sagar Chandra Biswas, bearing SLP(C) No. 8867 of 1994, the applicant also was entitled to the same..

2. On the other side, the respondents have denied the engagement of applicant as Ticket Checking Volunteer and have contended, inter-alia, that even assuming it to be true, the applicant was not entitled to the relief sought for, for the simple reason of inordinate delay.

3. First, as to the assertion of engagement as Ticket Checking Volunteer, the applicant has not been able to produce any office order issued by the respondents so as to establish his such engagement. It was only one certificate dated, 14th March, 1984, said to have been issued by one Mr. K.K.Banerjee, Chief Ticket Inspector, Kharagpur-3, as at Annexure-A/1, ^{which} has been appended to the application in proof of such engagement. The certificate speaks that the applicant had been working as Ticket Checking Volunteer to assist TTE/TC of Kharagpur-3 in ticket checking duty from 1st August, 1983 to 30th November, 1983, at daily wages rate of Rs.8/- per day. It has been rightly urged on behalf of the respondents Railways that the Chief Ticket Inspector had no authority to grant any such certificate. Together with the above certificate, there were two programme sheets also (Annexures-A/2 & A/3), issued by the said Mr. K.K.Banerjee to indicate the applicant's engagement in the month of October & November, 1983. In absence of any letter issued by the appointing authority, it is difficult to determine whether, the applicant was directly engaged by the Railways or it was simply through some voluntary organisation, who extended the help by way of ^{such} engagement. Be that as it may, we propose to examine the applicant's case even on assumption of his engagement, as asserted.

4. The applicant's engagement as Ticket Checking Volunteer pertains to the period from 1.8.83 to 30.11.83 at a daily rate wage of Rs.8/-. It was only after a long lapse of 13 years after the engagement that the instant OA has been filed seeking the relief as referred to above. Practically, no explanation has been offered making out a case for condonation of delay. It was rather asserted in paragraph no.3 of the application that the case was within the limitation period of Section 21 of the A.T.Act. We are unable to agree with this submission and also we

find it difficult to condone the delay for any sort of explanation (given so as to condone the same). The case was thus, obviously hit by the implication of limitation and, accordingly, it was not entertainable at all.

5. As to the emphasis put for extending the benefit to the applicant, as it had been extended to some similarly situated persons, our attention was drawn to the verdict of the Hon'ble Supreme Court in the case of Union of India & Ors. Vs. Sagar Chandra Biswas & Ors., vide Annexure-A/8. Certain interpretations were given by the Hon'ble Supreme Court in the order dated, 5th January, 1995, while disposing of the said SLP. The interpretation was in context of a particular set of facts as per which certain volunteers of the ticket checking branch had already been called for screening test for absorption in Group 'D' vacancies. Since such a step had already been taken by the Railways, the Hon'ble Supreme Court made an observation that a particular order of Tribunal was being implemented by the concerned Railway administrations and, therefore, nothing further remains to be done. This being the position, we are of the considered opinion that any such benefit already extended to certain similarly situated persons, who did not move the Court of law in time, may not help the present applicant. In this context, we would answer the applicant's plea with our observation that a Court of Law ought not to entertain such litigants, who await the result of a case filed by others and, after watching the result thereof, they come-up seeking the same relief. If such things are allowed, it would naturally circumvent the rights and contentions of parties arising out of law of limitation.

6. In order to strengthen our view, as taken above, we were persuaded by the counsel for the respondents to place reliance on the judgment and

order passed by this Tribunal on 19th June, 2000, in O.A. No. 137 of 1993. We are of the considered opinion that the instant case was based on facts almost similarly situated as in OA No. 137 of 1993.

7. For the foregoing reasons, this OA. is dismissed as barred by limitation. Even on merits also, this O.A. has no force to succeed and, accordingly, it was bound to fail on that score also. There shall be no order as to costs.


(L.R.K. PRASAD)
MEMBER (A)

19.06.01


(S. NARAYAN)
VICE-CHAIRMAN

19/6/01