

Date of Decision: 10.4.96

OA 60/96

Karim Bux

... Applicant

Versus

Union of India and others

... Respondents

CORAM:

HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

HON'BLE MR. O.P. SHARMA, MEMBER (A)

For the Applicant

... Mr. K.S. Chouhan

For the Respondents

...

O R D E R

PER HON'BLE MR. GOPAL KRISHNA, VICE CHAIRMAN

Applicant, Karim Bux, has filed this application u/s 19 of the Administrative Tribunals Act, 1985, praying for quashing the impugned order dated 13.11.95, at Ann.A-1, by which the concerned authority declined to initiate any action in his matter after a period of 17 years of his retirement since the relevant record was not available. He has also sought a direction for condonation of the break in service from 1.8.48 to 20.12.50 as also for a direction to calculate his pension afresh after considering the services rendered by him from 6.4.39 to 1.8.48 and treating his service as continuous from 6.4.39 till his retirement.

2. We have heard the learned counsel for the applicant. The applicant was working as a Skilled Carpenter under the Deputy Chief Mechanical Engineer, Railway Workshop, Northern Railway, Jodhpur, when his services were discontinued alongwith other similarly placed persons by way of retrenchment on 1.8.48. Retrenchment compensation was paid to him. The applicant was re-engaged on the post of Carpenter on 20.12.50 and he continuously remained in service till his retirement on 30.6.78. The applicant applied for condonation of break in service from 1.8.48 to 20.12.50 alongwith other similarly situated employees, but the respondents condoned the break in service in respect of double optee candidates but they did not condone the break in service in respect of the applicant. The impugned order at Ann.A-1 is being challenged as being discriminatory and violative of the provisions contained in Articles 14 and 16 of the Constitution. The applicant has also stated that he has been continuously representing his case to the concerned authorities but the representations had evoked no response.

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3. The case of the applicant is mainly based on his prayer for condonation of the break in his service from 1.8.48 to 20.12.50. The present application was filed on 18.1.96. There is no prayer for condonation of delay in the OA. The learned counsel for the applicant contends that the cause of action has accrued to the applicant from the communication at Ann.A-1 dated 13.11.95, by which the concerned authority had declined to initiate any action in this matter on the ground that the relevant record was not available and it was not possible to proceed. It is abundantly clear from the communication at Ann.A-1, referred to above, that the concerned authority had not adjudicated upon the grievance of the applicant on merits but had expressed its inability to take any decision due to non-availability of the relevant record and due to the fact that the matter had become quite stale. We are of the view that the matter of condonation of break in service is not a recurring cause of action. The learned counsel for the applicant has relied on a case decided by the Central Administrative Tribunal, New Delhi, reported in 1991 (6) SLR 131, D.N. Pandey v. Union of India. That case was decided on its own facts and circumstances and those facts and circumstances are distinguishable from the facts and circumstances of the case in hand. Law does not help the indolent, it does not help persons who stand by ^{and} allow things ^{to} happen without making any efforts to get their grievance redressed. In a case reported in AIR 1974 SC 2271, P.S. Sadasivaswamy v. State of Tamil Nadu, the Hon'ble Supreme Court made the following observations :-

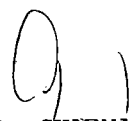
"It is not that there is any period of limitation for the Courts to exercise their powers under Article 226 nor is it that there can never be a case where the Courts cannot interfere in a matter after the passage of a certain length of time. But it would be a sound and wise exercise of discretion for the Courts to refuse to exercise their extra-ordinary powers under Article 226 in the case of persons who do not approach it expeditiously for relief and who stand by and allow things to happen and then approach the Court to put forward stale claims and try to unsettle settled matters. The petitioner's petition should, therefore, have been dismissed in limine. Entertaining such petitions is a waste of time of the Court. It clogs the work of the Court and impedes the work of the Court in considering legitimate grievances as also its normal work. We consider that the High Court was right in dismissing the appellant's petition as well as the appeal."

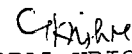
Since the cause of action had arisen on 20.12.50 i.e. much beyond a period of three years preceding the establishment of this Tribunal, the Tribunal has no jurisdiction to entertain the same, as envisaged by Section 21(2) of the Administrative Tribunals Act, 1985.

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4. In view of the facts stated hereinbefore, this application is rejected as being time barred, at the stage of admission.


(O.P. SHARMA)
MEMBER (A)


(GOPAL KRISHNA)
VICE CHAIRMAN

VK