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CENTRAL ADMINISTRATIVE TRIBUNAL,

JODHPUR BENCH, JODHPUR

ORIGINAL APPLICATION NO.: 217/2002

DATE OF ORDER: 30.15 Aug. 05

CORAM:

HON'BLE MR. G.R. PATWARDHAN, ADMINISTRATIVE MEMBER

Kamlesh Kumar Sharma S/o Shri M.D. Sharma, aged about 30 years last employed as Casual labour under Co-operative Society, Northern Railway, Churu, Resident of Near Chakla Bhawan, 12 Mahdev, Ward No.36, Churu.

...Applicant.

Mr. Y.K. Sharma, Counsel for the applicant.



VERSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Personnel Officer, Northern Railway, Divisional Office, Bikaner (Raj.)
3. The Administrator, Northern Railway Karamchari Sahkari Upbhokhta Samiti Limited, Northern Railway, Churu.

...Respondents.

Mr. Manoj Bhandari, Counsel for the respondents no. 1&2.
None present for respondent no.3.

ORDER

[Per Mr. G.R. Patwardhan, Adm. Member]

Kamlesh Kumar Sharma, last employed as Casual Labour under Co-operative Society of Northern Railway at Churu has approached the Tribunal with prayer that the respondent Railway authorities of Northern Railway at New Delhi, Bikaner and Churu be directed to treat him eligible for screening and thereafter regularize him on a group 'D' post under them. The first respondent is the General Manager, Northern Railway, the second Divisional Personnel Officer, Northern Railway, Bikaner and the

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third, the Administrator, Northern Railway Employees Co-operative Consumer Society at Churu. The O.A. has been filed on 26.08.2002 and its reply under the signature of Mr. D.D. Mandavi, Divisional Personnel Officer, Bikaner on 27.01.2003. The case was admitted on 05.02.2004 and after many adjournments, the case was heard on 02.08.2005 when the learned counsels for both the parties (Mr. Manoj Bhandari for respondents no.1 & 2 only) were present and heard. No rejoinder is available on the record despite a mention about its filing on 23.07.2004.



The O.A. has only two annexures. The representation dated 22.05.2001 and an extract of the Minutes of the meeting of Permanent Negotiating Machinery held on 31.05.2000 and 01.06.2000. The facts are very brief. The applicant maintained that he was engaged a casual labour sometime in March 1994 in the Northern Railway Employees Co-operative Store on a salary of Rs.500/- per month and worked there continuously. He says that as Railways are a Government undertaking and the Railways provide many services to its employees, running of Co-operative Society being one and the applicant having worked in that store of Co-operative Society falls in the category of Quasi-Administrative organization. He maintains that according to Railway Board Circular on 17.09.1977, it was the bounden duty of the respondent authorities to consider the staff of Co-operative Societies by screening for regular absorption in Group 'D'. It is claimed that his name was included for screening and that he approached a recognized union - Uttara Railway Mazdoor Union

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to raise his case in the permanent Negotiating Machinery meeting and that this matter was considered in a meeting which shows that the applicant was to be called for screening. The Minutes further show that the Union expressed its unhappiness with the action taken by the Railway authorities in the matter. The applicant therefore concludes by saying that the Railway authorities should be directed to take him for absorption.



The respondents through their arguments and pleadings have taken preliminary objection to the gross delay in preferring the O.A. by saying that the grievance had originated in 1994-95 itself, but the applicant did not approach the Tribunal and filing a delayed representation in 2002, as has been mentioned, cannot allow him the protection of Section 21 of Administrative Tribunal Act so as to bring the filing of this O.A. within the limitation period. They further say that the applicant has not shown whether any of his legal rights have been infringed and therefore no remedy can be offered by holding that he needs to be regularized. They further maintain in terms of Railway Board's Instructions of 1997, workers of the Quasi-Administrative offices have to compete with other eligible candidates for recruitment when a notification for the recruitment is issued and that as per the Recruitment Rule, Group 'D' posts are now being filled through Railway Recruitment Boards and there is no scope left for the applicant getting absorbed on the basis of a circular of 1977 which has been superceded by a circular of 1997, Annexure R-2. Through additional affidavit, the respondents have further submitted that the applicant was not working in the Co-operative

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Society on the date of filing the application as the society already stood dissolved with effect from 3rd September 1996. They further submitted that the Tribunal has already dismissed a similar O.A. No.53/2002 on 11.03.2003.



4. The applicant has not controverted the information given through the additional affidavit. Coupled with the provision under Section 21 of the A.T. Act relating to limitation, it is difficult to exercise jurisdiction in this matter which is time barred. O.A. dismissed with no order as to cost.

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(G.R. PATWARDHAN)
Administrative Member

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