

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.OA 963 of 97

Present : Hon'ble Mr.D.Purkayastha, Judicial Member
Hon'ble Mr.B.P.Singh, Administrative Member

HARADHAN MAHATO & ORS.

VS

UNION OF INDIA & ORS.

For the applicants : Mr.B.R.Das, counsel
Mr.A.Biswas, counsel

For the respondents : Mr.P.Chatterjee, counsel
Mr.S.Choudhury, counsel

Heard on : 4.12.98

Order on : 4.12.98

O R D E R

D.Purkayastha, J.M.

66 applicants by this application sought absorption as casual labour on permanent basis w.e.f. the date of retrenchment which took place in the year of 1975 on the basis of the judgement passed by the Hon'ble Tribunal on 16.11.90 in OA 813 of 88 which has been affirmed by the Hon'ble Apex Court by dismissing the SLP filed by the Union of India & Ors. on 7.1.91. It is the case of the applicants that they being similarly circumstanced ^{say} ~~thereby~~ their case ought to have been considered by the Railways for the purpose of absorption in the Railway department. ^{say} ~~and~~ It is also stated by the applicants ^{that} since after passing of the judgment some junior of the applicants were absorbed by the respondents on regular basis ^{say} ~~therefore~~ their case ought to have been considered by the respondents for the purpose of absorption on regular basis. Having not done so they acted arbitrarily by denying the principle of natural justice. The applicants filed an application on 21.8.97 before this Tribunal for a direction on the respondents to absorb them on permanent basis in view of the judgment passed by the Tribunal as mentioned above and include their names in the Life Register maintained by the respondents. The respondents did not file any reply in this case.

2. Mr. Das, ld. counsel on behalf of the applicants submits that there should not be any different method on the part of the respondents for the purpose of absorption since all are casual labours of the Railways and they are similarly circumstanced and they should be given similar opportunity of absorption in the department as it was done in respect of the others as per the judgment passed by the Tribunal in OA 813 of 88. So question of limitation should be condoned if any, in the interest of justice.

3. We have considered the submissions of both the parties on that score. It ~~remains~~ remains a fact that applicants were retrenched in the year of 1975 from the side of the respondents, that other casual labours filed OA 813 of 88 seeking absorption on regular basis and that OA has been affirmed by the Hon'ble Apex Court by the order dated 7.1.91. But it also remains from the side of the applicant that they did not approach any Court or Tribunal even after passing of the Apex Court's judgment in 1991. The applicants have come before the Tribunal seeking relief on 21.8.97 i.e. after 7 years from the date of passing of the judgment and 6 years after the date of rejection of the SLP filed by the respondents. On a perusal of the application we do not find that the ~~application has become successful to have~~ ^{applicant succeeded in justifying} condonation of delay in respect of the filing of the application after 6 years of the date of passing of the judgment of Hon'ble Apex Court. In a judgment of the Hon'ble Apex Court in 1990(3)SCC 232, it was held that the judgement or order of the Court in any other case did not give any cause of action for filing any application in any Court of law and cause of action should be _____ from the actual cause of action arose in respect of the applicant. Admittedly it is

found that the cause of action arose in 1975. Even after passing of the judgment in Apex Court in 1991 affirming the judgment of the Tribunal they did not approach the Tribunal. In ~~xxxxxxx~~ the case in Air 1993 SC 2276 Hon'ble Apex Court categorically held that the petitioner being retrenched employee did not take any steps to enforce ~~xxxxxxxxxxxxxx~~ their right placing them before the Railways immediately after the cause of action arose. They wanted to enforce thr right after 15 years ~~xx~~ and they failed to show their case was governed by a scheme. Such delay disentitled them both of ryme or right. Sympathetic treatment is not possible. The petitioners were governed by the scheme. In view of the aforesaid judgment of the Hon'ble Apex Court we find that this application also suffers from latches on the part of the applicants in approaching the competent Court of law. In view of the above the application is barred by limitation as well as suffers from latches on the part of the applicants. Accordingly it is dismissed. It may be mentioned that the ld. counsel for the applicants wants to submit^{that} the benefit of Rule 201 Clause(A) should be given to the applicants because of the submissions made before this Tribunal. But we are unable to accept the c ntention of Mr.Das on that score. We have already stated that the applicants have approached the Tribunal after 22 years from the date of retrenchment. In the meantime, many of them has attained the age of retirement on superannuation and thereby we find that such clause would not help in anyway for consideration of the case since delay cannot be explained in anyway. The application is therefore dismissed. No order as to costs.

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MEMBER (A)

in

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MEMBER (J)