

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

Original Application No 98/97

Date of decision: 15.06.2004

The Hon'ble Mr. R.K. Upadhyaya, Administrative Member.

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

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Sri Satrughan Ram Disengaged Hotweather Waterman of the Eastern Railway, Asansol Division, residing at PO JASHIDI, Vill. Santhali Deogarh, Bihar.

: Applicant.

rep. by : Mr. S.K. Dutta &  
Mr. T.K. Biswas : Counsel for the applicant.

versus.

1. Union of India through the General Manager, Eastern Railway  
17 Netaji Subhas Road, Calcutta -1
2. The General Manager, Eastern Railway, 17, Netaji Subhas Road, Calcutta - 1
3. The Chief Personnel Officer, Eastern Railway, 17, Netaji Subhas Road, Calcutta - 1
4. The Divisional Railway Manager, Eastern Railway, Asansol Division, Asansol, Dist. Burdwan.
5. The Senior Divisional Personnel Officer, Eastern Railway, Asansol Division, Asansol, Distt. Burdwan.
6. Senior Divisional Commercial Manager, Eastern Railway, Asansol Div. Asansol, Distt. Burdwan.

: Respondents.

rep. by Mr. R.K. De: Counsel for the respondents.

ORDER

The Hon'ble Mr. J.K. Kaushik, Judicial Member.

Sri Satrughan Ram, has filed this OA for seeking a direction to the respondents to provide job to him.

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against any casual vacancies and to absorb him against any suitable Gr. 'D' post and he may be given regular appointment from the date his immediate junior was appointed to Group 'D' post with all consequential benefits.

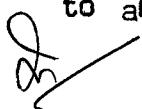
2. The material facts of the case are that the applicant was a seasonal staff, hotweather waterman during July the period from 1977, till March 1984 and had completed 185 days of service. After having worked for 185 days, he had been granted temporary status and he was medically examined and found fit in A-2 medical category. The service particulars are indicated in Annex. A/1. In accordance with the seniority his name is placed at Sl. No. 28 and the seniority was to be determined as per the number of days of service rendered by the individual. He was sent for screening test and he became eligible for absorption in Group 'D' Posts. But to his surprise he was not considered for absorption and number of his juniors mentioned in para 4 (f) were absorbed on regular basis.

3. The further case of the applicant is that some of the similarly placed casual labourers filed O.A. No. 370/91, which came to be finally disposed of on 08.03.94 and the applicants therein were re-engaged and absorbed in Group 'D' posts. After coming to learn about the said order, the applicant made representation on 15.08.96 and the same was followed by number of reminders. The applicant had to approach this Tribunal since without interruption from the Tribunal, he would not get any favourable orders from the respondents. However, the OA has been filed on the ground that there has been violation of Art. 14 and 16 of the

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Constitution of India and the applicant is entitled for appointment from the date his junior has been appointed and also entitled for other consequential benefits.

4. The respondents have filed counter reply and have contested the case. The applicant's claim is that he was engaged till March 1984, but on actual scrutiny his name was not found in the muster roll to justify his claim. His name was not included in the select list so prepared. It has been categorically denied that the applicant had worked from July 1977 to March 1984 as a seasonal staff and has also worked for 185 days. There is no detail as to the actual date of engagement and number of working days of Mela waterman and without details it could not be computed as how many number of days he had worked. It is also stated that the statement in Annex A, which contains the details of individuals were again scrutinised and it was found that the name of the applicant was not there and the details were not found true. It is further stated that as the applicant's name was not found in the muster roll, a Welfare Inspector was sent to make on the spot inquiry in the stations concerned and as per the report of the Welfare Inspector the applicant's name was not found in the muster rolls and ultimately, the applicant's name was deleted from the selected/scrutinised candidates. The judgements cited by the applicant has no relevance to the facts of this case. It is also stated that not only the name of the applicant was deleted but also other 25 names were deleted from the same. The applicant is therefore not entitled to any relief.

  
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5. A short rejoinder has been filed controverting the averments made in the reply.

6. We have heard the learned counsel for the parties and have very carefully perused the records of this case.

The learned counsel for the applicant has made lot of efforts to persuade us that the seniority list prepared on 12.03.85 at Annex. A/1, the applicant's name has been shown at Sr. No. 28. He has further submitted that persons at Sl. No. 29 Sukhdev Yadav and at Sl. No. 30 Kishnu Rawani, had filed their cases before this Bench of the Tribunal, which came to be decided on 08.03.94 ( D.A. No. 370/91. ) wherein it was directed that the respondents should give appointment/scrutinise the cases and give them appointment subject to availability of vacancies. He has submitted that the applicant is similarly situated person and his claim has not been allowed and his representation has been rejected. He has also submitted that Annex. A/1 indicating the panel was prepared after the scrutiny test. He has also submitted that in the reply the respondents have not given details and no documents have been placed on record. Therefore the applicant is entitled to similar relief.

7. On the other hand, the learned counsel for the respondents has reiterated the averments made in the reply and has submitted that the name of the applicant was already deleted. He has also submitted that the list is not a panel and the name of the applicant was not available in any of the muster roll of the concerned railway station. Further

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as per the records of the railways, the applicant has not worked at all and therefore the question of considering him for re-engagement does not arise. He has also submitted that besides the factual aspect of the matter, the applicant was disengaged as early as in 1984 as per his own version and by now more than 20 years have been passed, and that his claim cannot be sustained.

8. We have considered the rival submissions put forward on behalf of both the parties. As far as the question of limitation is concerned, the applicant has not been engaged after 1984 and if at all any of his junior has been engaged in the year 1994, the O.A ought to have been filed at least in the year 1995. But the instant O.A has been filed in the year 1997. Thus the O.A is ex-facie time barred and when once the application is time barred, the same cannot be entertained and the merits cannot be gone into until the obstruction of limitation is crossed.

9. In the instant case, there is no application for condonation of delay and therefore the question of condoning the delay does not arise and since the delay cannot be condoned, the case cannot be heard on merits as per the proposition of law laid down by the Apex Court in the case of Ramesh Chand Sharma vs. Udhamp Singh Kamal and others ( 2000 (1) ATJ 178.) Therefore the O.A deserves to be dismissed on the ground of limitation itself. However, we are otherwise also not satisfied that there is any merit in the instant case. It is the specific case of

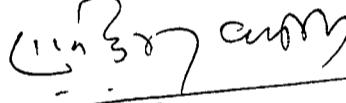
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the respondents that as per their records, the applicant has never worked in the railways and even his name was also deleted from the same list which was prepared for this purpose. It is not clear from Annex. A/1 that as to whether it is a panel or seniority list and as to why the same is issued. The applicant has not been able to place any valid record in support of his contention that he has worked in the railways. Since there is no proof of his working in the railway, the question of re-engagement in service does not arise. The question of granting him any relief also does not arise. Thus on merits also we are unable to persuade ourselves. Therefore the applicant has no case in his favour.

10. In the premise, the OA is hopelessly barred by limitation and the same/sans merits and stands dismissed accordingly.  
No costs.

  
( J.K. Kaushik )  
Member (J)

  
( R.K. Upadhyaya )  
Member (A)

jsv.