

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH: CALCUTTA

Original Application No. 1060/97

Date of decision: 20.12.2004

Hon'ble Mr. Mukesh Kumar Gupta, Judicial Member.

Hon'ble Mr. M.K. Misra, Administrative Member.

Arun Chowdhury, S/o Shri Abhimanyu Chowdhury, 35, Netaji Charan Dutta Lane, Howrah. 711 101

: Applicant.

None present for the applicant.

- versus -

1. Union of India service through the General Manager, Eastern Railway, 17 Netaji Subhas Road, Calcutta 700 001.
2. The Chief Personnel Officer, Eastern Railway, 17 Netaji Subhas Road, Calcutta 700 001
3. The Chief Engineer, Eastern Railway, 17, Netaji Subhas Road, Calcutta 700 001
4. Mr. M.S. Nagarajan, P.A. to the Chief Engineer, Eastern Railway, 17 Netaji Subhas Road, Calcutta 700 001
- 5- The Additional Chief Vigilance Officer, Eastern Railway 17 Netaji Subhas Road, Calcutta 700 001
6. The District Engineer (Construction) Eastern Railway, Farakka Division

: Respondents.

rep. by Mr. P.K. Arora : Counsel for the respondents.

ORDER (Oral)

Mr. Mukesh Kumar Gupta, Judicial Member

By the present application, the applicant
seeks a direction to the respondents that he has a
declaration of

right for absorption as he had continuously worked for more than 6 years, with all consequential benefits including reinstatement in Group 'D' post.

2. The facts as stated are that the applicant was appointed as a Casual Khalasi with effect from 05.01.74 and he was terminated on 30.06.80. Thereafter, he was not re-instated despite the fact that three similarly circumstanced were inducted back into service. After coming to know about the Railway Board circular dated 11.01.95, for filling up of Group D vacancy by employment of casual labour and substitutes he submitted a representation, but the respondents failed and neglected to dispose of the same. It is contended that the respondents action in not absorbing and re-instating the applicant on a permanent basis, particularly when similarly circumstanced other three persons were absorbed is violative of Art. 14 and 16 of the Constitution of India and he had a legal right for absorption.

3. The respondents contested the application and stated that the applicant had worked as a casual Khalasi for the period from 21.05.74 to 31.03.79 and thereafter from 02.04.79 to 30.06.80. The three other Khalasis were absorbed against availability of sanctioned posts. It is contended that the applicant did not apply within the stipulated time for enrolment of his name. Hence his case could not be considered. The grievance of the applicant being of the year 1980, at this distant point of time, the same cannot be reopened. The provision of personnel in any estimates are fixed depending upon the nature and value of the work

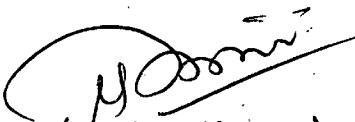
[Signature]

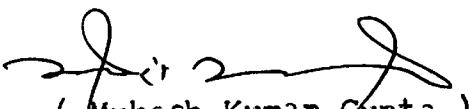
and therefore the question of extending the period of service of the personnel engaged in such work did not arise. The relevant papers and the circumstances on which the other three casual Khalasis were absorbed are not traceable with the respondents and as such no comments can be made at this stage. It appears that the applicant had no interest and was not serious in taking up the matter with the concerned authorities.

4. Since none appeared for the applicant, we perused the pleadings carefully and heard the learned counsel for the respondents.

5. On bestowing our careful consideration, we find that the applicant, who was terminated on 30.06.80, did not approach the Court of competent jurisdiction at that point of time. Further no detail regarding the three alleged ^{alleged} casual Khalasis who have been brought out in the O.A. have been brought out in the O.A. The applicant has not explained the delay in approaching this Tribunal. Since the cause of action arose much prior to 01.11.82, which is the time prescribed under Sec. 21 (2) (a) of the Administrative Tribunals Act, 1985 we are of the considered view that this Tribunal is not competent and have ^{no} jurisdiction to entertain the grievance raised by the applicant. Since the applicant has not approached the concerned authority in time he had lost the right of remedy also.

6. In view of the above, the present application is found to be bereft of merits and it is dismissed. No costs.


(M.K. Misra)
Administrative Member


(Mukesh Kumar Gupta)
Judicial Member

jsv.