

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No.O.A.496/1997

Present : Hon'ble Mr. D. Purkayastha, Judicial Member

Hon'ble Mr. G.S. Maingi, Administrative Member

MALAY CHAKRABORTY & ORS.

VS.

UNION OF INDIA & ORS.

For the applicant : Mr. C.R. Das, counsel

For the respondents : Mr. M.K. Bandopadhyay, counsel

Heard on : 07.3.2000

Order on : 07.3.2000

O R D E R

D. Purkayastha, J.M.

Heard ld. counsel for both sides.

2. The short question for decision before us is whether the applicant, Malay Chakraborty and 191 others are entitled to get the benefit of appearing in the screen test for the purpose of absorption in the railway department in light of the judgment dated 10.4.1996 passed by this Tribunal in O.A.No.439/1995 and O.A.No.1342/1994 on the ground that they have worked under the department as Volunteer Ticket Collectors in Sealdah Division in the year 1983 and have completed more than 120 days' work. According to the applicants, they were engaged in the said posts for assisting the railways in the matter of ticket checking in Sealdah Division on the basis of the recommendation made by Bharat Samaj Sevi Sangha which has been sending volunteers to the railway department since 1982 to tackle the extra work of ticket checking. It is stated by the applicants that since the Hon'ble Tribunal has given the benefit of appearing in the screen test for the purpose of absorption in the department to who were similarly circumstanced, some other persons/ vide order dated 10.4.1996 in O.A.No.439/1995 and 1342/1994(Annexure 'E' to the application), they are also

entitled to get similar benefits as per rules.

3. Respondents filed written reply denying the claim of the applicants. It is stated by the respondents that the applicants have never worked under the department as Volunteer Ticket Collectors and they never made any representation to the authorities for their appointment in response to the advertisements made by the competent authority for the purpose. Now they have come before this Tribunal with a fake claim after a lapse of so many years. It is further stated by the respondents that the applicants did not file any application for condonation of delay under the provision of Section 21 of the Administrative Tribunal Act, 1985. Therefore, the application is barred by limitation and is liable to be dismissed as being devoid of any merit.

4. Ld. counsel, Mr. C.R. Bag appearing on behalf of the applicants, submits that the applicants ^{are} not claiming employment in the department and their claim is restricted to the screening as has been done in the case of the applicants in O.A.No.1342/1994 in view of the judgment of this Tribunal passed on 10.4.1996. According to Mr. Bag there should not be any discrimination between similarly situated persons under the rules. He further submits that the applicants have worked in the department as Volunteer Ticket Collectors for more than 120 days during the relevant period on the basis of the recommendation made by the Bharat Samaj Sevi Sangha which is a voluntary organisation and they are similarly situated and circumstanced persons as the applicants in the O.A. 1342/94. Therefore, similar benefit may be given to the applicants in this O.A. as given to the applicants in the said O.A. bearing No.1342/94.

5. Ld. counsel, Mr. M.K. Bandopadhyay appearing on behalf of the respondents contends that the application is hopelessly barred by limitation since the application for condonation of delay has not been filed by the applicants which should have been filed under the rules. It is stated by the ld. counsel,

Mr. Bandopadhyay that the applicants are extreneous persons, they have never worked as Volunteer Ticket Collectors in the office of the respondents as claimed in the application.

They never made representation to the authorities for appearing from service in the screen test after disengagement/and did not move the Tribunal for so many years like these Volunteers who were screened by the department as per the judgment of this Tribunal. Therefore, the application is not maintainable in the eye of law as that has been filed by some fictitious persons.

6. We have considered the submissions made by the ld. counsel for both sides and have perused the records. It is admitted fact that the applicants were aggrieved by the action of the respondents when the respondents disengaged them from service as Volunteer Ticket Collectors. So, the cause of action in this matter arose long back i.e. in the year 1983 when the applicants were disengaged from the department. But from the records it appears that they never approached to the authorities being aggrieved by the said order of disengagement and they have slept over the matter till decision of the O.A. bearing No.1342/1994 and O.A.No.439/1995 as referred to by the ld. counsel for the applicants, Mr. C.R. Bag. Thereafter, the applicants have come before this Tribunal by filing this ^{original} application on 6.5.1997 without filing any application for condonation of delay. Recently, the Hon'ble Apex Court has decided the question of limitation under the AT Act in the judgment reported in (1999)8 Supreme Court Cases 304(Ramesh Chand Sharma Vs. Usham Singh Kamal & Others with State of H.P. Vs. Usham Singh Kamal & others) holding that the Tribunal should not entertain the time-barred applications in respect of which no application for condonation of delay has been filed within the prescribed period.

7. In view of the aforesaid circumstances, we find that the application is devoid of any merit and is liable to be dismissed on the ground of limitation alone. Moreover, the applicants

could not show any reason as to why they slept over the matter for so many years and why they did not approach the competent authorities after their disengagement from the department or after knowing that some persons were screened by the authorities as per direction of this Tribunal. Considering all these facts and circumstances of the matter, we dismiss the application in view of the judgment of the Hon'ble Supreme Court mentioned above.

8. No order is passed as to costs.

Singh
7.3.2000.
MEMBER(A)

[Signature]
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MEMBER(J)