

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

Original Application No. 153 of 2010 &
Miscellaneous Applications Nos. 191 & 192 of 2010 in
Original Application No. 153 of 2010

Tuesday, this the 25th day of October, 2011

CORAM:

Hon'ble Mr. Justice P.R. Raman, Judicial Member
Hon'ble Mr. K. George Joseph, Administrative Member

M. Sreekumaran Nair,
Aswathy Bhavan, Koollappana,
Neyyattinkara P.O.

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Applicant

(By Advocate – Mr. B. Krishna Mani)

V e r s u s

The Union of India, represented by the Divisional Personal
Officer, Office of the Divisional Personal Officer, Southern
Railway, Thiruvananthapuram.

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Respondent

(By Advocate – Mr. Thomas Mathew Nellimoottil)

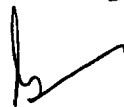
This application having been heard on 26.09.2011, the Tribunal on

25-10-11 delivered the following:

ORDER

By Hon'ble Mr. K. George Joseph, Administrative Member -

The applicant is a Khalasi in Southern Railway retrenched in the year 1980. OA No. 1309 of 1998 filed by him was disposed of by this Tribunal by directing the respondents thereof to consider his representation for appointment as Khalasi and dispose of the same by a speaking order. His representation was rejected by letter dated 27.1.1999 at Annexure A-5 for the reason that he has not registered his name prior to 31.3.1987 as required by law in the supplementary live casual labour register. The Hon'ble High



Court of Kerala in its judgment dated 29.11.2007 in WP(C) No. 17375 of 2006 had declared that age limit will not be applicable to the casual labourers who have completed 360 days of service for absorption in service. This OA is filed for quashing the Annexure A-5 order and for a direction to the respondents to appoint him on the post of Khalasi in the Southern Railway.

2. MA 191 of 2010 in OA No. 153 of 2010 is filed for condoning delay of 259 days in re-presenting the OA on the ground of financial crisis of the applicant to come to Ernakulam. MA No. 192 of 2010 in OA No. 153 of 2010 is for condoning the delay of 9 years and 83 days in filing the OA on the ground that the applicant came to know about Annexure A-6 judgment only recently.

3. The respondents have opposed the condonation of delay in both MAs as the applicant has not furnished any worthwhile reason for condoning the delay.

4. Heard the learned counsel for the parties.

5. Annexure A-6 judgment is dated 29th November, 2007. Counting from that date there is a delay of more than 2 years. The challenge against Annexure A-5 order dated 27.1.1999 is delayed for more than 10 years. As per the Annexure A-5 order the representation of the applicant was rejected on the ground of not submitting his application before the cut of date 31.3.1987 for registering his name in the supplementary live casual labour



register. Annexure A-6 order pertains to non-applicability of age limit for absorption of the casual labourers who have completed 360 days of service. Non-submission of the application before the cut of date and non-applicability of age limit are two different and distinct aspects. Annexure A-6 order can no way justify the delay in filing this OA challenging Annexure A-5 order. That the applicant came to know about the Annexure A-6 order recently only is no convincing reason for condoning the delay in filing the OA. The reasons given for the long delay of 259 days in filing the OA is due to financial crisis. We do not find this reason worth considering. In terms of Section 21(2) of the CAT Act, 1985 an OA has to be filed within one year of the cause of action arising. In 1993 (3) SC 1418 (R.C. Samantha Vs. Union of India) the Hon'ble Supreme Court held that "long delay which is unexplained dis-entitles an adjudication".

6. In view of the above MAs 191 and 192 of 2010 in OA No. 153 of 2010 are dismissed for want of reasonable ground to condone the delays in filing the OA No. 153 of 2010. Consequently, the OA No. 153 of 2010 being barred by limitation, is dismissed. No order as to costs.



(K. GEORGE JOSEPH)
ADMINISTRATIVE MEMBER



(JUSTICE P.R. RAMAN)
JUDICIAL MEMBER

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