

**CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O.A.No.187/06

Thursday this the 23rd day of March 2006

C O R A M :

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

P.Krishnan Nair,
S/o.Padmanabhan Nair,
Ex-Casual Labourer,
Southern Railway, Palghat Division.
Residing at Ranji Nivas, Kulaviyodu,
Ambalathinkala P.O., Kattakkada, Trivandrum.

...Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by the General Manager,
Southern Railway, Head Quarters Office,
Park Town P.O., Chennai – 3.
2. The Divisional Railway Manager,
Southern Railway, Palghat Division, Palghat.
3. The Senior Divisional Personnel Officer,
Southern Railway, Palghat Division, Palghat. ...Respondents

(By Advocate Mrs.Sumathi Dandapani)

This application having been heard on 23rd March 2006 the Tribunal on the same day delivered the following :

ORDER

HON'BLE MRS.SATHI NAIR, VICE CHAIRMAN

Heard both the sides on the question of limitation. Counsel for the applicant submitted that the applicant had been informed by Annexure A-2 order that his ranking was at Serial No.1227 in the live register and since none of his juniors had been engaged he would be considered for re-engagement in relation to his placement in the live register as and when re-engagement is resorted to. Since then he had been waiting. He came to know that again in 2003 some other persons were being considered for

2

verification and that persons similarly placed like the applicant had approached the Tribunal in O.A.633/03. It is submitted that the representation dated 16.2.2005 (Annexure A-3) has not been disposed of so far by the respondents. In the meantime the Writ Petition filed before the Hon'ble High Court against the order of the Tribunal in O.A.633/03 has been dismissed vide order dated 5.10.2005. The High Court directed that cases of applicants therein should be considered ignoring the age factor and thus the order of the Tribunal had become final. Having come to know of this, he again submitted representation on 15.1.2006 and therefore the O.A. is not hit by limitation as the period prescribed under Section 21 of the Administrative Tribunals Act has not expired. Section 21 is extracted as under :-

21. Limitation. -

- (1) A Tribunal shall not admit an application :-
 - (a) in a case where a final order such as is mentioned in Clause (a) of sub section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made ;
 - (b) in a case where an appeal or representation such as is mentioned in Clause (b) of sub section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.
- (2) Notwithstanding anything contained in sub section (1), where -
 - (a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates ; and
 - (b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

the application shall be entertained by the Tribunal if it is made within the period referred to in Clause (a), or, as the case may be, Clause (b), of sub section (1) of within a period of six months from the said date, whichever period expires later.

.3.

(3) Notwithstanding anything contained in sub section (1) or sub section (2), an application may be admitted after the period of one year specified in Clause (a) or Clause (b) of sub section (1) or, as the case may be, the period of six months specified in sub section (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

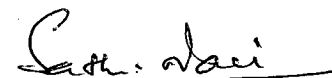
2. Sub clause (b) of the Section 21 stipulates that if the representation is pending without a final order having been made and the period of six months has expired thereafter the application can be admitted within one year from the date of expiry of the said period of six months. Hence O.A. is within the period of limitation.

3. On the other hand, counsel for the respondents submitted that in a similar case viz. O.A.140/06 where also representation had been made only on 24.1.2006 claiming knowledge of the judgment in O.A.633/03, the Tribunal had rejected the application as pre-mature. It was also submitted that the applicant has himself admitted in Para 4(c) that he was aware of the verification of documents of some other retrenched casual labourers being taken by the respondents in March/April 2003 and nothing prevented the applicant from coming forward with a representation, but he has chosen to keep quiet for two years and had approached the respondents allegedly in February 2005 only. Counsel also made the point that many such applications have been filed before the Tribunal and a consistent stand is not being taken by the counsel for the applicant and that in some cases it was pointed out that the Tribunal was not constrained by limitation for directing disposal of representation and it can be done even if six months period had not lapsed and in some cases the limitation period is extendable to 1 ½ years. Counsel for the applicant rebutted the same stating that these cases are distinguishable.

.4.

4. Having considered the submissions, the earlier orders of this Bench in O.A.140/06 and O.A.135/06 as also the judgment of the High Court in Writ Petition No.30832/04, I am of the view that as far as the question of limitation is concerned, this Tribunal is guided by the unambiguous provisions of Section 21 (b) of the Act and in accordance with the above, since the representation has been made by the applicant on 16.2.2005 and it had not been disposed of, the limitation period would extend up to August, 2006. Hence there is no bar to admit this application. Coming to the merits, I consider that since the question of age limits has now reached a finality by the order of the Hon'ble High Court, the applicant is entitled for a consideration of his representation if otherwise eligible in accordance with other conditions of re-engagement. In this view of the matter, I direct the 3rd respondent to consider the representations at Annexure A-3 and Annexure A-4 in the light of the order in O.A.633/03 and the judgment of Hon'ble High Court in W.P.(C) No.30832/04 as also in accordance with the relevant rules and instructions on the subject and dispose of the same within a period of two weeks from the date of receipt of a copy of this order. No order as to costs.

(Dated the 23rd day of March 2006)



SATHI NAIR
VICE CHAIRMAN

asp