

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 361

1991

DATE OF DECISION 25.2.92

K. Sreelatha _____ Applicant (s)

Mr. Thomas Mathew _____ Advocate for the Applicant (s)

Versus

Sr. Supdt., Telegraph Traffic Division,
Trivandrum and others _____ Respondent (s)

Mr. P. Sankarankutty Nair, ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S. P. MUKERJI, VICE CHAIRMAN

The Hon'ble Mr. N. DHARMADAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? No
4. To be circulated to all Benches of the Tribunal? No

JUDGEMENT

MR. N. DHARMADAN, JUDICIAL MEMBER

The applicant is aggrieved by the refusal of the first respondent to appoint her as Telegraph Assistant considering her provisional selection and appointment as R.T.P. Telegraph Assistant as per Annexure A-2 order dated 19.1.1984.

2. When Annexure-I notification was issued, the applicant sent ~~xxx~~ her application to the first respondent for selection and appointment to the post of Telecom. Office Assistants, Trivandrum Division. She was selected considering her application dated 29.2.1983 and Annexure-II

order dated 19.1.1984 was issued by the first respondent intimating her provisional selection and directing her to produce original documents to prove her age, community, educational qualifications, etc. Accordingly, she produced all the required documents and reported to the first respondent in 18.9.1984 for signing declarations required for appointment. By Annexure-II letter dated 15.9.84, the applicant was directed to call on the office of the first respondent within two days of the receipt of the said letter. By telegram dated 29.12.1984, the first respondent requested the applicant to report to the office of the first respondent at 10 a.m. on 31.12.84. Since she was studying for the final year Engineering Diploma Course which would be completed after two more months, she requested that she may be deputed for training in the next batch. The first respondent after receiving the written submission from the applicant promised that she would be deputed for training in the next batch and memo will be sent to her intimating the time for joining the training class. The applicant completed the Engineering Diploma course in March, 1985 and passed the Examination in first class. Annexure A-5 is the certificate. /the applicant did not receive any memo from the first respondent directing her to appear for the training, she approached the first respondent in person on 1.6.1985/she was informed that there is no vacancy and she cannot be sent for training in the next batch because of the imposition of ban on recruitment. But the first respondent

said that when vacancy arises she would be given due intimation. Thereafter, the applicant sent representations on 12.5.86, 17.2.88 and 24.11.88 requesting the first respondent to include her xxxx also in the training programme. Later, when the applicant knew that all RTP candidates had been absorbed in the Department on a time bound basis, as per the directions of the Hon'ble Supreme Court, the applicant submitted a detailed representation Annexure A-6 dated 29.6.1990. This was rejected as per order Annexure A-7 dated 13.9.90. The applicant is challenging Annexure A-7 order and prays for a direction to the respondent to absorb her in the Trivandrum Telegraph Traffic Division as Telegraph Assistant.

3. In the reply statement filed by the respondents, they have admitted that taking a lenient view, the first respondent accepted the request of the applicant to exclude her from the first batch of candidates who were sent for training scheduled to start on 22.9.84. But the Department when decided to conduct another training which was to commence from 1.1.1985, an intimation was sent to the applicant, but she did not report for training. Annexure R-4 is the intimation indicating that in case of failure, her name will be removed from the select list. As she did not respond to this intimation and failed to turn up for training, her name was removed from the select list in accordance with the standard rules. Thereafter, there was no oral or written representation from the applicant

except Annexure A-6 dated 29.6.90. This was duly considered and rejected as per impugned order because, after a lapse of about six years, the applicant's claim cannot be considered.

4. Having heard the matter in detail, we are of the view that though there is no proof for service of Annexure R-4, the long delay in agitating the grievance of the applicant is fatal and stands in the way of the applicant in granting relief as prayed for in this application. Annexure R-4, ~~xx~~ dated 29.12.1984, does not indicate that a copy has either been marked to the applicant or served on her. However, she has admitted in the application that she reported before the first respondent on 31.12.84 and submitted that she was undergoing the final year Civil Engineering Diploma Course which would be completed only by the end of March, 1985. This is also reiterated by her in the affidavit dated 25.6.91 filed in this case. From this fact it can be presumed that the applicant is aware of the contents ~~xx~~ of Annexure R-4; otherwise, there is no necessity for the applicant to appear before the first respondent at 10 a.m. on 31.12.84. There is no evidence to prove that the applicant persistently agitated the matter ever since 1.1.1985 till the submission of Annexure A-6 representation. It is true that the applicant has stated in the original petition that she has submitted repeated representations on 12.5.86, 17.2.88 and 24.11.88 requesting the first respondent to send her for training

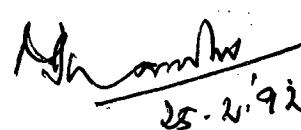
but there is no proof to substantiate this submission.

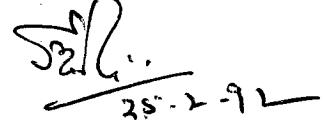
Even in Annexure A-6 there is no whisper about her previous representation and personal request alleged to have been made by her to the first respondent as contended before us.

5. Under these facts and circumstances, we can only come to the conclusion that the applicant did not make her request for including her for training/after 31.12.1984 at any time and before Annexure A-6 on the basis of her selection in the year 1984. It appears that the request was made only after a lapse of about six years. The applicant's case based on the ban of appointment as stated in the application cannot be believed for no satisfactory evidence is produced to establish when exactly the ban was imposed and it continued upto what time. The delay of six years in approaching this Tribunal has not been satisfactorily explained.

6. Under these circumstances, we are of the view that the applicant is not entitled to the reliefs as prayed for in this application. In the result, we see no merit in the application. It is only to be dismissed.

7. Accordingly, we dismiss the application. There will be no order as to costs.


25-2-92
(N. DHARMADAN)
JUDICIAL MEMBER


25-2-92
(S. P. MUKERJI)
VICE CHAIRMAN

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

R.A. 53/92 in

O. A. No. 361/91

~~XXXOOOK~~

~~XXX~~

DATE OF DECISION 30.4.92

K. Sreelatha

Applicant (s)

Mr. Thomas Mathew

Advocate for the Applicant (s)

Versus

Sr. Superintendent, Telegraph Respondent (s)
Traffic Division, Trivandrum and four others

Mr. Sankaran Kutty Nair

ACGSC Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P. Mukerji, Vice Chairman

The Hon'ble Mr. N. Dharmadan, Member (Judicial)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

N. Dharmadan, M(J)

The Review Application is by the applicant in O.A. According to the applicant there are manifest errors apparent on the face of the records.

2. In para 4 of the judgment in OA 361/91, we have found after going through the entire evidence available in the case that the delay from 29-12-84 has not been satisfactorily explained. The applicant, who was provisionally selected as Telecom Office Assistant by Annexure-II order dated 19-1-84, ^{was} directed as per Annexure-4 to report for

training on 31-12-84. She reported before the Senior Superintendent on 31-12-84 but requested for time. Annexure R-4 was also sent to the applicant directing her to attend the training of RTPs on 1-1-85 with a warning that failure would result in removal of the name from the list. We found on facts that though this order, Annexure R-4 was not seen served on the applicant, she was aware of the same and appeared before the officer the first respondent, at 10.00 hours on 31-12-84. Her request for extension was orally sanctioned with a condition that memo would be sent to her for next training. Thereafter she did not receive any communication. She filed Annexure-6 representation dated 29-6-90. It was rejected by Annexure A-7 dated 13-9-90.

3. We dismissed the application mainly on delay and laches. No satisfactory explanation for the delay from Annexure R-4 dated 29-12-84 is ~~discrepant~~ ^{discrepant} evinced. Her cause of action arises from that date for she was aware of Annexure R-4 and the consequence following there from. She relied on repeated representation. The representation produced in the case is Annexure A-6 dated 29-6-90. There was no mention of earlier representation alleged to have sent by her on 12-5-86, 17-2-88 and 24-11-84. When we said that there is 'no whisper about earlier representation or personal request' We fferered about the earlier representations as stated in the Original Application. There is no factual error. ~~The fact~~

The fact remains that the applicant was relying on repeated representations from 1984 to 1990. The Courts have held repeatedly that repeated representations would not keep alive a legal right. The applicant could have approached this Tribunal within a reasonable time after 31-12-1984. Her failure is fatal and cannot be condoned. There is no explanation for this long and undue delay. Hence ~~this~~ is a case which richly deserves to be rejected. Accordingly, we dismissed the same.

4. The decision in this case is valid. No ground has been made out to review the judgment. The Review Application is liable to be rejected and we do so.

N. Dharmadan

30.4.92

(N. Dharmadan)
Member (Judicial)

S.P. Mukerji

30.4.92
(S.P. Mukerji)
Vice Chairman

30. Cr. 92

ganga ??