

Central Administrative Tribunal Lucknow Bench Lucknow**O.A. No. 13/2006****This, the 1st day of September, 2008****HON'BLE MR. M. KANTHAIAH, MEMBER (JUDICIAL)**
HON'BLE DR. A.K. MISHRA, MEMBER (ADMINISTRATIVE)

Babu Lal Aahir aged about 43 years, son of Sri Rati Pal, residen of Village Pure Sahai Bux Ka Purwa, Post Office-Pindara, Tahsil-Musafirkhana, District Sultanpur.

Applicant.

By Advocate Sri S.K. Upadhyay.

Versus

1. Union of India, through the Secretary to Government Department of Railways, Civil Secretariat, New Delhi.
2. General Manager, Northern Raiwlays, Baroda House, New Delhi.
3. Senior Mandal Karmik Adhikari Ambala chawani, Ambala.
4. P.W.I. Rupnagar, District-Rupnagar.

Respondents.

By Advocate Sri B.B. Tripathi for Sri N.K. Agarwal.

Order**By Hon'ble Dr. A. K. Mishra, Member (Administrative):**

The applicant has filed this Original Application with a prayer for direction to the respondents to appoint him on a Group 'D' post in consideration of his representation made in this regard before the Respondent No. 3.

2. Brief facts of the case are as under:


The applicant was engaged by Northern Railways as a Casual Labour on 2.22.1983. He performed his duties for 349 days and obtained a certificate from the respondents in support of such engagement.

3. According to him he received a letter from the Respondent No. 3 asking him to submit his application in the prescribed form for



appointment of Safaiwala latest by 18.2.1996 and he submitted the application form, duly filled in, by hand to the clerk who was in charge of receipt of applications. Again he received another reminder letter on 2.9.1997 from the Respondent No. 3, to submit his application in this regard with requisite documents within a period of 15 days, in case he was willing to work as a Safaiwala. In response to this letter, he states that he met the clerk in charge and handed over the requisite documents. But he did not hear anything from the Respondent No. 3 even after waiting for long. So he made a representation for his appointment on regular basis (Annexure 3) to the respondent No. 3 on 29.9.2003 and sent it through registered post. Thereafter, he sent a reminder on 9.9.2005. This Original Application has been filed when he did not get any relief.

4. The Counter Reply filed on behalf of the respondents accepts the position that the applicant worked as a Casual Labour for a period of 349 days. The respondents' contention is that the applicant was informed in the letter No. 726-E/Misc./PZB.Ned Sanitation/UNB dated 12.5.1997 to report to the office of Respondent No. 3 within a period of 15 days in case he was interested in the post of Safaiwala. When there was no response from him, a reminder letter dated 12.9.97 (Annexure A-2) was issued asking him again to report to the Office of Respondent No. 3 within a period of 15 days with requisite documents and it was made clear that no further correspondence would be entertained in this regard and in the event of his failure to act upon the opportunity given, his name would be struck off from the Casual Labour Live Register. Since, the office of Respondent No. 3 did not get response from many casual labourers, even inspite of individual notices, a general notice on the subject was published in the leading local newspapers on 11th February 1998 (Annexure-CA-1 and CA-2). Inspite of newspaper publication of notices,



the applicant failed to respond. So his name was removed from the Casual Labour Live Register in the year 1998.

5. The contention of the applicant that he submitted the application form to the clerk in charge and subsequent representation of 2003 and reminder of 2005 to the office of Respondent No. 3 has been denied. According to the respondents, the applicant neither applied for the post of Safaiwala in spite of notices, both individual and general, nor any representation from him was received in their office. After long delay the present Original Application has been filed which is barred by limitation under Section 21 of the AT Act. In the Rejoinder Affidavit, the fact of publication of the notice in News Papers has not been denied. But, it is claimed that the applicant was living in District Sultanpur and as such had no opportunity to know about the notice which was not widely circulated in Sultanpur. As regards limitation, a plea has been taken in the Original Application that since his representation for appointment on a Group 'D' post was still pending in the office of the respondents, it has to be deemed that the applicant is having a recurring cause of action. As such, the limitation as prescribed under Section 21 of the At Act did not apply to this case .

6. The provisions of Section 21 of the AT Act are extracted below:

"21. (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."



Clause (b) deals with the situation where a representation about any grievance has been made and a period of 6 months had expired thereafter without any final order on such representation; in that event, the limitation period of one year will be counted from expiry of 6 months from the date of representation. Admittedly, as per the averments in the O.A., the representation was made on 29.9.2003. For argument's sake, even if this fact, which has been denied by the respondents, is taken into consideration the limitation period expired on 29.3.2005, but the present application has been filed on 5.1.2006. The real cause of action arose in the year 1998 when his name was struck off the Casual Labour Live Register and according to his own averments, the applicant did not take any steps for redressal of his grievance until 2003.

7. On all accounts, we find that this case suffers from laches and delay, as such, the application is barred by limitation.

8. In the result, the Original application is dismissed. No costs.


(Dr. A. K. Mishra)
Member (A)


(M. Kanthaiah)
Member (J)

01-09-2008

v.