

CENTRAL ADMINISTRATIVE

LUCKNOW BENCH

Original Application No.253/2008

This the 12th day of January 2009

HON'BLE MR. M. KANTHAIAH, MEMBER (J).

HON'BLE DR. A.K. MISHRA, MEMBER (A).

M.M. Mishra aged about 57 years son of late A.K. Mishra, ex-khallasi helper under the respondents R/o ED/6-E Rajajipuram, Lucknow.

...Applicant.

By Advocate: Shri A.C. Mishra.

Versus.

1. Union of India through General Manager, North Eastern Railway, Headquarter Office, Gorakhpur and
2. The Divisional Railway Manager, North Eastern Railway, Ashok Marg, Lucknow.

By Advocate: Shri C.B. Verma.

ORDER

BY MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed this OA on 15.07.2008 with a prayer to treat the period of waiting for orders w.e.f. 16.07.1993 to 31.10.1994 as spent on duty at Charbagh Shed itself or alternatively to treat it as leave due (LAP, LHAP or extra ordinary leave) basing on the orders



passed by the then General Manager, North Eastern Railway Headquarter at Gorakhpur on 31.10.1994 (Ann-A-4).

2. The respondents have opposed the claim of the applicant by filing preliminary objections stating that the claim of the applicant relates to the period of 1994 and as such, the same is barred by limitation under Section 21 Administrative Tribunal Act, 1985.

3. Heard both sides.

4. The point for consideration is whether OA is maintainable or liable to be rejected at admission stage.

5. Admittedly, the claim of the applicant for the period of 1994 basing on the orders of Respondent No.1 covered under Ann-A-4 Dt. 31.10.1994 for treating the absence w.e.f. 1.11.1993 during which period he did not report at his new place of posting to treat the said period either spent on duty or alternatively to treat it as leave due. Such claim is made, admittedly after period of about 14 years and no application for condonation of delay has been filed by giving sufficient reasons. In such circumstances, the claim of the applicant is barred by limitation and on such ground the OA is liable for rejection at admission stage.

6. Further, the applicant along with 7 others already agitated their claim basing on Ann-A-4 Dt. 31.10.1994 order of Respondent No.1 in their earlier O.A.No.500/1993 on the file of this Tribunal and the same was disposed of on 15.5.2001, stating that the applicants would be free to apply to the department for the salary for the period from 14.06.1993 to 31.10.1994 and the department may decide the claim

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as per extent rules. Ann-A-6 is the copy of the order Dt. 15.05.2001 in O.A.No.500/1993. But the applicants did not take any steps basing on such direction of the tribunal and now re-agitating on the same issue after a lapse of 7 years is also not at all maintainable and ~~applies~~ ^{attracts} the principle of Res-judicata and thus, the OA is not maintainable even on this ground also.

7. In view of the above circumstances the OA is not maintainable and thus liable for rejection at admission stage.

In the result, OA is rejected at admission stage. No costs.

Atij 28/10/09
(DR. A.K. MISHRA)

MEMBER (A)

anuj
(M. KANTHAIYAH)

MEMBER (J)

12-01-2009

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