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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW BOMBAY BENCH

O.A. No. 188/87

~~XXXXXX~~

198

DATE OF DECISION 24.7.1991

Ms. Anjalai Kalian Petitioner

____ Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondent


Mr. J.G.Sawant Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. M.Y.Priolkar, Member (A)

The Hon'ble Mr. T.C. Reddy, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ? Je
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. Whether it needs to be circulated to other Benches of the Tribunal ? No


 (M.Y.Priolkar)
 Member(A)

(6)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

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Original Application No.188/87

Ms. Anjalai Kallian,
C/o. T.R.Talpade, Advocate,
Narottam Nivas, Ground Floor,
308, Jawji Dadaji Marg,
Nana Chowk, Bombay 400 007.

... Applicant

V/s

1. The Permanent Way Inspector
(Construction), Apta-Roha Railway
Project, Central Railway, Pen,
Dist. Raigad.

2. Deputy Chief Engineer (C),
Central Railway,
Panvel.

3. Union of India, represented by
the General Manager,
Central Railway, Bombay V.T.
Bombay 400 001.

... Respondents

CORAM : Hon'ble Member (A), Shri M.Y.Priolkar
Hon'ble Member (J), Shri T.C.Reddy.

Appearances:

None present for the applicant.
Mr. J.G.Sawant, Advocate for
the respondents.

ORAL JUDGEMENT:

Dated : 24.7.1991

{Per. M.Y.Priolkar, Member (A)}

The applicant nor her advocate is present
inspite of notice. Mr. J.G.Sawant, Advocate, appears
for the respondents. Since a short point is involved
in this case, ^{and} it is also covered by ^{an} ~~the~~ earlier judgement
of this Bench, we proceed to dispose of this application
inspite of the absence of the applicant or her advocate.

2. According to the applicant, she was employed as
woman labourer or Khalasi in the Central Railway from
or about 31st January 1982 till about November 1985 when
her services were orally terminated. She alleges that

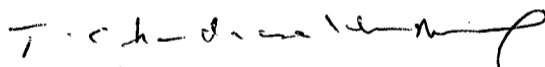

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she was medically examined in 1983 and found fit in C-1 category but she was unjustly directed to undergo medical examination in B-1 category on 31st October 1985 and thereafter she was orally informed that she was found unfit in B-1 category and therefore she should not come for work thereafter. According to her, although she had requested Respondent No.1 to send her for medical examination in B-2 or C-2 category the respondents have refused to do the same.

3. In their written reply the respondents have stated that the applicant was required to undergo a medical examination for absorption in temporary category and accordingly she was sent for medical examination on 7.11.1986 for B-1 category. She was found unfit in the medical examination and according to the respondents the applicant has voluntarily abandoned her services after that and has not reported for work since 21.1.1986. The respondents have also stated that under the Rules no alternative employment can be offered to a medically unfit candidate in casual category and that such alternative employment is offered to only a permanent employee who is declared medically unfit in the course of his service and a suitable alternative job is provided in a lower category to such a person. Since the applicant does not fall into such a category of permanent employee she will not be entitled to any alternative employment.

4. It is not necessary for us to go into these rival contentions as this application can be decided on the short point of limitation and which has been upheld in the similar cases by this Bench in its common judgement dated 28.8.1990 in O.A. 187/87, 224/87 and 225/87. In the present case the alleged termination

of service took place in January 1986. It appears that there is no representation of the applicant on this behalf and this application was filed before the Tribunal on 19th March 1987 i.e. more than one year after the date of her termination of service. It cannot be disputed that the cause of action arose from the date from which the alleged termination of service took place. The applicant has not even filed any application for condoning the delay in filing this application. We have, therefore, to uphold the preliminary objection of the respondents in this case that the application is barred by limitation having been filed after a delay of more than one year from the date of the alleged cause of action. The application is accordingly rejected as barred by limitation. There will be no order as to costs.


(T.C. Reddy)
Member(J)



(M.Y. Priolkar)
Member(A)