

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH
CIRCUIT SITTING AT NAGPUR

O.A.835/88

Smt.Satyaphulabai Raut,
Anand Road,
Indora Machine Mohalla,
Nagpur.

.. Applicant

vs.

1. Union of India
2. General Manager,
South Eastern Railway,
Garden Reach,
Calcutta-700 043.
3. Chief Mechanical Engineer,
South Eastern Railway,
Nagpur.
4. Chief Personnel Officer,
South Eastern Railway,
Garden Reach,
Calcutta-700 043.

.. Respondents

Coram: Honb'le Member(J) Shri M.B.Mujumdar
Hon'ble Member(A) Shri P.S.Chaudhuri

Appearance:

Shri D.V.Chahande,
Advocate for the
Applicant.

ORAL JUDGMENT:
(Per M.B.Mujumdar, Member(J))

Date: 18-1-1989

The applicant's husband, Shriram Raut was appointed as a Lifter in the then Bengal Nagpur Railway, predecessor of the present South Eastern Railway. For taking part in a strike of the railway employees his services were terminated on 3-4-1951. At that time he was working as a Boiler Fitter. He did not make a representation or approach any Court till 1977. However, on 16-10-1977 he made a representation for reinstating him in service. He pointed out in his representation that the Supreme Court in its judgment delivered on 5-12-1963 in the Civil Appeal of Motiram Deka vs. General Manager, North East Frontier Railway had held that Rules 148/149 of the Railway

Establishment Code, Vol.I, were constitutional and the order passed in terms of these rules terminating the services of the railway employees were illegal. However, he did not receive any reply. He expired on 30th October, 1977. Thereafter his wife, i.e. the present applicant, Smt. Satyaphulabai Raut, made three representations dtd. 6-12-1978, 7-5-1983 and ~~in~~ 7-7-2-1986. A copy of the last representation is produced along with the application wherein she has requested for paying legal dues and benefits of the service rendered by her husband and for giving pensionary benefits to her. No reply was received to any of these representations. Finally on 3-11-1988 she has filed this application under Section 19 of the Administrative Tribunals Act for (i) declaring that her deceased husband was in service on the railways till his death i.e. till 29-12-1977; (ii) setting aside the order of termination of the services of her husband and grant of pensionary and other terminal benefits to her; (iii) awarding backwages from the date of termination till the date of reinstatement; (iv) directing the respondents to determine the promotions etc. her deceased husband would be entitled to; and (v) paying her the amount of (a) gratuity (b) provident fund and (c) leave encashment.

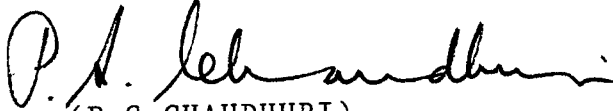
2. We have heard Shri D.V. Chahande, learned advocate for the applicant, on the point of limitation. After considering the facts and the arguments advanced before us by Shri D.V. Chahande we find that the application is hopelessly barred by limitation. In a similar case viz. O.A. 834/88 filed by one Dhonda Arjun Mendhe ~~vs. same respondents as in this case~~, we have held in our judgment delivered on 16-1-1989 that the application is ^a barred by limitation and we have no jurisdiction to entertain the applica^ation. We have pointed out that, unlike the powers of High Courts under

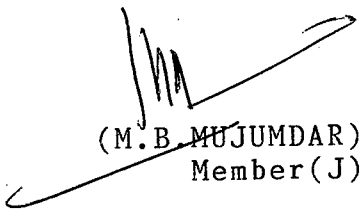
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Section 226 of the Constitution of India, we are bound by the provisions of ^{the} Administrative Tribunals Act, 1985 including the provisions regarding limitation under Section 21 of the Act. We have also relied on a judgment of the Principal Bench of this Tribunal in V.K.Mehra vs. Secretary, Ministry of Information and Broadcasting, New Delhi, A.T.R. 1986 CAT 203. The Principal Bench of the Tribunal ^{has} held that the Act does not vest any power or authority in the Tribunal to take cognizance of a grievance arising out of an order made prior to 1-11-1982 and in such a case there is no question of condoning the delay in filing the petition but it is a question of the Tribunal having jurisdiction to entertain a petition in respect of a grievance arising prior to 1-11-1982. It is further held in that case that the limited power vested to condone the delay in filing the application within the period prescribed is under Section 21, provided the grievance is in respect of an order made within three years of the constitution of the Tribunal. In this case, as far as the deceased husband was concerned his grievance against the termination of his service rose on 3-4-1951. He did not challenge that order in any court of law. Though the Supreme Court has decided that the termination of service of some similarly situated persons is illegal the decision of the Supreme Court will not give a fresh cause of action. Moreover, the Supreme Court has decided the case as far back as ⁱⁿ 1964. The ^papplicant has not brought to our notice any scheme framed by the Railways under which the applicant's husband or the applicant herself can claim any relief in spite of this delay and laches.

Am

3. We, therefore, reject this application summarily under Section 19(3) of the Administrative Tribunals Act, 1985.


(P.S. CHAUDHURI)
Member (A)


(M.B. MUJUMDAR)
Member (J)