

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 583/99

Date of Decision : 25.8.2000

S. Immanuel Applicant.

Shri K.B.Talreja Advocate for the
Applicant.

VERSUS

Union of India & Others. Respondents.

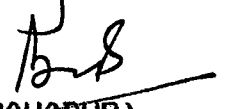
Shri Suresh Kumar Advocate for the
Respondents.

CORAM :

The Hon'ble Shri B.N.Bahadur, Member (A)

- (i) To be referred to the Reporter or not ?
- (ii) Whether it needs to be circulated to other
Benches of the Tribunal ?
- (iii) Library

} No


(B.N. BAHADUR)
MEMBER (A)

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.583/99

Friday this the 25th day of August, 2000.

CORAM : Hon'ble Shri B.N.Bahadur, Member (A)

Shailesh Immanuel,
R/o Maharashtra Board,
Baite Chawl No.14,
Room No. 104,
Ambarnath-421 505.

...Applicant

By Advocate Shri K.B.Talreja

V/S.

The Union of India
through the General Manager,
Central Railway, Mumbai CST.

The Divisional Railway Manager,
Central Railway, Mumbai CST.

... Respondents

By Advocate Shri Suresh Kumar

O R D E R (ORAL)

(Per : Shri B.N.Bahadur, Member (A))

This is an application made by Shri Shailesh Immanuel seeking the relief that respondents be directed to regularise him in any of the Group 'C' or Group 'D' posts in Catering Department.

2. I have heard learned counsel of both sides.

3. At the very start, learned counsel for respondents pleaded that the issue relating to limitation should be taken up

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first as, in his view, the case was severely hit by limitation, delay and laches. After perusal of the bare facts, it was decided that the case will be heard on limitation to start with.

4. I have heard Shri. Talreja, learned counsel for the applicant who argued his points in some detail, first on the issue of limitation.

5. It is seen from the facts as stated in the application that the applicant has worked as Assistant Cook (as skilled casual labour) with Catering Department at CST Mumbai. The periods for which he had worked are detailed by him in para 6 of the application, starting from June, 1990 to June, 1994. The spells are not very long spells as can be seen from the data in paragraph 6.

6. Now, it is clear that the Applicant has not worked with the respondents after 1994. During arguments, learned counsel for applicant did mention that in the notice given by the applicant's advocate (Annexure-10), there is a mention that applicant had worked after 1994 also. This Annexure is seen. But this is extremely casual mention and nowhere in the Application has this fact been stated. Further, Respondents clearly state in their statement that he had been discontinued w.e.f. 30.6.1994 and never engaged on casual basis thereafter. Thus, there is a five years gap between the time the Applicant become aggrieved with the respondents' action/inaction, and the

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filing of this OA. It is not a small period of delay either. Learned Counsel for the Applicant sought to explain this delay by saying that he had an established right because of his screening. This position does not impress me at all. Further, it is argued on behalf of the Applicant that Applicant was visiting the Respondents' office continuously, and that he was not provided with any relief by way of employment, and hence did not come up to the Tribunal. It is also mentioned, somewhat feebly, that coming to Tribunal/Courts create, prejudice. None of these arguments can be established as being a justifiable cause for condonation of delay for a period that extends to 5 years.

7. The Respondents, in the written statement, have gone into considerable details on the point of Limitation and have quoted well known cases in their support contending that the case is badly hit by limitation and that the delay cannot be condoned. In fact, the point is also made that not only has the applicant not filed an M.P. for condonation but has stated in his application that it is not hit by limitation.

8. This case is clearly and badly hit by limitation and further the long period of 5 years cannot be condoned. The absence of any petition for condonation is also not ^{merely} a technical matter and hence there is no justification for providing liberty to the Applicant to file, now, an M.P. for condonation, as was requested by the learned Counsel for the Applicant ^{ultimately} during arguments. ₁ B.S.

9. In view of the discussions above, this Application is hereby dismissed, being badly hit by limitation. It is, however, clarified that this order will not come in the way of the Respondents considering the request of the Applicant for any employment etc., as per rules and on merits, if they so desire. There will be no orders as to costs.

B.N. Bahadur

(B.N. BAHADUR) 25/8/02

MEMBER (A)

mrj.