

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 504/1999

Date of Decision:

Shri ManoharP Papa Barse

Applicant.

Shri S.V.Marne

Advocate for
Applicant.

Versus

Union of India & two Ors.

Respondent(s)

Shri Suresh Kumar

Advocate for
Respondent(s)

CORAM:

Hon'ble ~~xxxx~~ Smt. Shanta Shastri, Member(A).

Hon'ble Shri.

- (1) To be referred to the Reporter or not?
- (2) Whether it needs to be circulated to other Benches of the Tribunal?
- (3) Library ✓

Shanta
(SHANTA SHASTRY)
MEMBER(A)

abp.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION : 504/1999

DATED THE 17th DAY OF APRIL, 2001.

CORAM: HON'BLE SMT. SHANTA SHASTRY, MEMBER(A)

Shri Manohar Papa Barse,
Jamner Road,
Athawale Bazar,
Near Police Chowkie No.3
Bhusawal - 425 201.

... Applicant.

By Advocate Shri S.V.Marne

V/s.

1. Union of India, through
The General Manager,
Central Railway,
Mumbai CST,
Mumbai - 400 001.

2. Divisional Railway Manager,
Bhusawal Division,
Central Railway,
Bhusawal - 425 201.

3. The Dy. Chief Electrical Engineer,
and now
The Chief Workshop Manager,
Electric Locomotive Workshop,
Central Railway,
Bhusawal - 425 201.

... Respondents.

By Advocate Shri Suresh Kumar.

(O R D E R)

¶ Per Smt. Shanta Shastri, Member(A) ¶

The main prayer of the applicant in this OA is to consider him for regularisation by screening and grant him the benefits from 1985 up to the time he is reinstated.

2. The applicant was appointed as a casual labour Khalasi on 22/8/81. He worked with the Shop Superintendent Central Railway, Electrical Locomotive Works (Construction). Later on he was granted monthly rated status and he worked

up to 18/2/84 when he was retrenched due to curtailment in establishment as per order dated 18/1/84. Thereafter he also worked as Hot Season Waterman from 29/4/1985 to 30/6/85 and 27/7/89 to 26/9/89. His services were terminated from 18/9/1983 but he was allowed to continue till 18/2/84. According to the applicant he was to be considered for screening and regularisation as his name was entered in the Casual Labour Live Register. However, when he was sought to be screened and regularised in 1985, his services rendered in the construction department were not taken into consideration. According to the applicant, in the screening conducted in 1985 the respondents failed all the screened candidates, as they had not rendered any service in the maintenance organisation.

3. The applicant further submits that atleast ^{who} twentytwo employees/were similarly placed like the applicant had filed OA in the Tribunal and the same had been allowed. Another OA was filed by one Shri Vaykole, Chandekar and Rane who were junior to the applicant. These people also have been regularised. According to the applicant, he has put in the requisite number of days of service for regularisation. The applicant states that he was submitting representations but no reply was granted to him. He therefore approached the Railway Administration through ^{Ulhas} Dr. Patil, Member of Parliament to redress his grievance and Dr. Patil forwarded the same to Divisional Railway Manager, who replied to Dr. Patil on 11/9/98 stating that the services rendered by the applicant under the third respondent, i.e. Dy. Chief Electrical Engineer, Electric Loco Workshop, Central Railway, could not be taken into consideration and the

case has therefore to be dealt with by the third respondent.

4. The applicant presses for his regularisation.

5. The respondents in their written reply have taken the initial plea that the prayers at para-8 b to f in OA are time barred and they suffer from great delay and laches and therefore the same are required to be dismissed. The matter pertains to 1985 therefore the applicant cannot now come before the Tribunal seeking regularisation from 1985. Even the letter dated 11/9/98 addressed to Hon. Member of Parliament cannot be used as an excuse to explain the limitation. XX

~~XX~~ The respondents have also denied that applicant had addressed any letter to the department.

6. The respondents state that they have verified the service record of the applicant and they admit that the applicant worked as Khalasi from 22/8/81 till 18/2/1984 and thereafter in broken periods till 26/9/89. The applicant's services were terminated due to the curtailment of establishment and he was paid retrenchment compensation. The respondents have submitted that the applicant put in service of 1036 days and his date of birth as per record is 27/8/1958. As per the policy of the Railway Board in regard to the screening of ex-casual labour, a person has to be borne on the live register or supplementary register and has to be screened taking into consideration, age, educational qualification, the number of days worked. The applicant did not fulfill the age criteria as on 1/4/99 and therefore he was not called for screening on 8/12/99. According to the circular dated 9/10/98 and 18/5/99 and further circulars of the Railway Board, it has been mentioned that casual labour whose name is on the live

register or supplementary register or who have put in three years service may be granted age relaxation to the extent of 40 years in the case of General candidates, 43 years in the case of OBC candidates and 45 years in the case of SC/ST candidates. The minimum educational qualification is VIIIth standard pass. In the case of the applicant, he belongs to the ST Community and possesses the requisite educational qualification but he has put in only 1036 days of service that is less than three years and he is age barred as on 21/8/98. Prior to the circular of 1998, the applicant was not even eligible for consideration.

7. ~~7. The~~ of A number of casual labour has been declared unsuitable as they were not fulfilling the conditions laid down in the Railway Board's circular, therefore on the ground of limitation as well as on the ground of non fulfilment of conditions regarding age and the number of working days, the applicant is not entitled to regularisation.

8. The applicant has further urged that the respondents did not take into consideration his service as Hot season water man from 29/4/85 to 30/6/85 and 27/7/89 to 26/9/89 for 86 days under the Station Superintendent, Bhusawal. The respondents have now taken note of this period for calculating three years service after verification. However, the applicant submits that there still remains the period from 12/7/85 to 9/10/1985 which has not been counted.

9. The respondents however have not accepted this claim of the applicant because even in his OA there was no reference to this period nor was it reflected in the live register. The applicant has produced in support a xerox copy of the backside of the casual labour service record.

According to the respondents this seems to be a later interpolation as this particular record is not available in their Register. The respondents have to follow whatever is there in their record/Register.

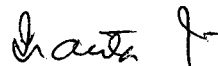
9a. On a query as to whether by three years' service the number of days to be counted was on the basis of 240 days per year or 365 days per year, the respondents agreed to produce supporting documents to show that one year is treated as equivalent to 365 days and not 240 days. The respondents have produced the relevant clarification in the matter.

10. I have heard the learned counsel for the applicant as well as for the respondents and have perused the relevant instructions in the matter. The points for consideration are limitation and whether the applicant fulfilled the conditions for regularisation. The Railway instructions dated 1/6/99 talks about relaxation of age limit for serving Railway employees for recruitment to Group 'C' and Group 'D' posts in Railways. In this letter, it has been stated that in terms of para-115(iv) of IREM, Volume-I, 1989 as modified by advance correction slip No. 189 issued by Ministries letter of even number dated 19/8/95 serving Railway employees who have put in continuous three years service in Railways will be eligible for age relaxation for direct recruitment upto 40 years in case of General candidates and 45 years in case of SC/ST candidates. In the case of OBC candidates it will be available up to 43 years. It is clear from this that the age relaxation is to be granted to only those who put in three years continuous service and who were serving Railway employees. In the instant

case, the applicant had already been retrenched from 1984. He was not serving thereafter not is he serving at present. Further, he had not completed three years continuous service. Therefore the applicant cannot be said to be entitled for regularisation. The respondents have therefore rightly rejected his request for regularisation.

11. In the matter of limitation, the actual cause of action has arisen when the applicant was retrenched in 1984, the applicant failed to approach the respondents in time. He has filed an application for condonation of delay. The reasons given are not acceptable. He has approached only in 1998 that too through Member of Parliament. It was in 1996 that the Railways decided to regularise casual labour borne on the supplementary casual labour live register. If we take that date even then the applicant has approached this Tribunal very late in May, 1999. Therefore the limitation applies in this case.

12. In my considered view therefore the OA is not maintainable both on the ground of limitation as well as on merits. Accordingly, the OA is dismissed. I do not order any costs.



(SHANTA SHASTRY)
MEMBER(A)

abp.

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

REVIEW PETITION NO. 42/2001 in
ORIGINAL APPLICATION NO: 504/99

Manohar Papa Barse

...Applicant

V/s

Union of India and others.

...Respondents

TRIBUNAL'S ORDER ON REVIEW PETITION BY CIRCULATION

Per Smt. Shanta Shastry, Member(A)

DATED: 7th August, 2001

A Review has been sought by the applicant, of the order dated 17.4.2001 in OA 504/99. I have gone through the grounds taken by the review applicant. I find that the applicant has tried to re-argue the case by traversing the same grounds. The Review Petition is therefore not maintainable and is accordingly rejected.

Shanta

(Smt. Shanta Shastry)
Member(A)

NS
order/Judgment despatched
to Applicant/Respondent(s)
on 13/8/01

MP