

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI

ORIGINAL APPLICATION NO. : 45/2000

Date of Decision : 27.11.2001

P.R.Mistry Applicant

Shri S.P.Inamdar Advocate for the
Applicant.

VERSUS

Union of India & Ors. Respondents

Shri Suresh Kumar Advocate for the
Respondents

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

(i) To be referred to the reporter or not ? No

(ii) Whether it needs to be circulated to other
Benches of the Tribunal ? No

(iii) Library No

(S.L.JAIN)
MEMBER (J)

mrj.

CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.45/2000

Tuesday this the 27th day of November, 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Phiroz Rustomji Mistry,
R/at Room No.8, Lam Building,
"A" Block, Delisle Road,
Opp.Lower Parel Railway Station,
Mumbai.

...Applicant

By Advocate Shri S.P.Inamdar

vs.

1. The Union of India
through the General Manager,
Western Railway, Churchgate,
Mumbai.

2. The Divisional Railway Manager,
Western Railway, Mumbai Central,
Mumbai.

...Respondents

By Advocate Shri Suresh Kumar

O R D E R (ORAL)

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 for the direction to the respondents to pay the applicant the difference in wages i.e. emoluments for the actual work done by the applicant less the emoluments paid by the respondents during the period from 1988 to 1992.

Signature

..2/-

2. The learned counsel for the applicant Shri S.P.Inamdar seeks time to proceed with the matter. Prayer to adjourn the matter is rejected.

3. After hearing the respondents' counsel, I proceed to decide the matter.

4. The claim of the applicant is for the period commencing from 1988 to 1992 for difference of wages as he claims to have performed the duty of Driver Grade 'A' while he was being paid the wages of Driver Grade 'B'.

5. The applicant has filed an application before the Labour Court on 5/6.2.1997 which was decided on 26.5.1998. Thereafter, the applicant filed Writ Petition before the Hon'ble High Court of Bombay which was decided on 20.8.1999. Thereafter, the applicant filed this OA. before this Tribunal on 23.12.1999. The applicant has filed M.P.No.28/2000 for condoning the delay.

6. On perusal of the said M.P., the ground mentioned by the applicant - due to his own ill health, he could not file the application before this Tribunal, therefore there is a delay of two months in filing the original application. Suffice to say that there is no medical certificate to support the claim. The period begins to run from 1988 and not from 1999 - the date of decision by the Hon'ble High Court of Bombay.

J. (S. N.)

..3/-

7. The period begins to run not from the date of the decision in Writ Petition but from the date when payments were being made, i.e. every first of the month when he has performed the duties. The delay in filing the case before the Industrial Tribunal leads me to draw an inference that the case suffered from delay and laches. The decision of the Hon'ble High Court of Bombay cannot give a fresh cause of action to the applicant as such the claim of the applicant is barred by time. I do not find any sufficient cause for condoning the delay as it is even not established. Only pleadings confines to 2 months.

8. In the result, I do not find any merit in the OA. It is liable to be dismissed and is dismissed accordingly with no order as to costs.

S.L. Jain
(S.L. JAIN)

MEMBER (J)

27/11/01
Order/Judgement despatched
to Applicant / respondent (s)
24/01/02
MS
mrj.