

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 525/2000

DATE OF DECISION: 10/11/2000

Shri Chandrakant & Anr.

Applicant.

Shri P.V.Daware

Advocate for
Applicant.

Versus

Union of India & 2 Ors.

Respondents.

Shri V.S.Masurkar

Advocate for
Respondents.

CORAM:

Hon'ble Smt. Shanta Shastry, Member(A)

1. To be referred to the Reporter or not? } No
2. Whether it needs to be circulated to
other Benches of the Tribunal? }
3. Library. Yes

Shanta S.
(SHANTA SHAstry)

MEMBER(A)

abp

**CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH
ORIGINAL APPLICATION NO:525/2000
DATED THE 10th DAY OF NOV. 2000**

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

1. Shri Chandrakant S/o Piraji Kamble
2. Shri Shivaji S/o Matuti Ladekar ... Applicants

By Advocate Shri P.V.Daware

V/s.

1. The General Manager,
Department of Telecommunication,
Shivajinagar, Nanded,
Dist.Nanded
2. The Divisional Engineer,
(Administration) C/o.Telcom District Manager,
Nanded.
3. The Junior Engineer,
Vazirabad Gandhi Chowk,
Nanded District Nanded. ... Respondents

By Advocate Shri V.S.Masurkar

(O R D E R)

Per Smt.Shanta Shastry, Member(A).

The applicants have filed the present OA seeking to continue the their services as a lineman in Kandhar, District Nanded or anywhere in Nanded whenever vacant post is available with immediate effect and to consider their representation and to regularise their services as a lineman or as a Group 'D' employee at Nanded with immediate effect.

2. It is the case of the applicants that they had worked as lineman from 1981 -1986 and 1982-84 respectively under respondent No.3. They worked continuously with technical breaks in service. Their services were terminated orally. Since they had worked for more than 240 days and since at present there are vacant posts of

lineman available in the Department represented to the respondents on 7/6/99 and 1/7/99 asking to issue them the certificate of working days. But they did not receive such a certificate. They had made a representation earlier also on 19/1/99.

3. The applicants have also filed Miscellaneous Application No.361/2000 on 10/2/2000 for condonation of delay in filing the OA on the ground that they have not received any positive reply from the respondents to their representation of 19/1/99.

4. The applicants are relying upon the following judgements in support of condonation of delay and for their continuation.

Collector Lan Acquisition Anantnag and Another V/s. Mst.Katiji and Others decided on 12/2/1987 by the Supreme Court of India (Exhibit-A).

It was held in this case that a liberal approach should be adopted on principle in the matter of condonation of delay. In Keshav Narayan Gupta and Ors. V/s. Jila Parishad Shivpur (MP) and Ann reported at 1998 306 (L&S) 1119.

In this case the applicants were appointed as clerk and driver on ad hoc basis for short periods with shshort breaks and were continued for 7 long years. It was directed to consider the cases of the applicants if any regular appointments are made, by waiving if necessary the age bar. Until such regular appointment are made, they will continue to function on ad hoc basis.

Secretary, Haryana State Electricity Board V.s Suresh and Ors reported at 1999 AIR sew - 892 and Secretary, Ministry of Communication V/s. Sakkubai reported at 1998 SCC (L&S) 119 have also been cited for support.

5. The respondents have contested the case. A preliminary objection has been taken that while the grievance pertains to the period prior to 1986 the OA has been filed on 19/7/99. Thus, the OA suffers from serious delay and laches. Therefore it deserves to be dismissed. The respondents are relying on the following judgements in support that OA is suffering from delay and laches is not maintainable.

- (i) P.S.Sadasivawswamy V/s. S/O Tamil Nadu AIR 1974 SC 2271.
- (ii) Jacob Abraham and Ors. A.T.Full Bench Judgements, 1994-96.
- (iii) Ram Chandra Samanta V/s. Union of India 1994(26)ATC 228.
- (iv) S.S.Rathore V/s. S/O.M.P. 1989(2)ATC 521.
- (v) Bhoop Singh V/s. Union of India IR 1992 SC 1414.
- (vi) Secretary to Government of India V/s. Shivaram M Gaikwad (1995)30 ATC 635 - 1995(6)SLR(SC)812
- (vii) Ex.Capt. Harish Uppal V/s. Union of India 1994(2)SLJ 177
- (viii) L.Chandra Kumar V/s. Union of India 1997(2)SLR(SC)1.
- (ix) AIR 199 SC 564 Dattaram V/s. Union of India
- (x) 1996 LLJ 1127(SC) Union of India V/s. Bhagnoar Singh

6. On merits the respondents have stated in their reply that they have verified the record and found that no such persons have worked as lineman with the answering respondents. No such service books are available in the name of applicant Nos.1 and 2. The attendance register is required to be kept only for a period of three years as per Vol.10 of the P&T manual. The application is hopelessly barred by limitation.

7. The applicants were never appointed. Reappointing them does not arise. Lineman is a group 'C' post to be filled through regular group 'D' employees. The applicants have not produced any appointment order, any proof of advertisement a call letter or any supporting documents to show that they were Government employees at any time.

8. I have heard the learned counsel for both sides. The respondents have rightly taken objection regarding delay and laches. The cause of action as arisen in 1984 and 1986 when according to the applicants, their services were discontinued. The Applicant have now filed the OA in July 1999. The judgements cited by the respondents have held that delay and laches do not help the applicants if they sleep over their rights for long periods, even the Courts cannot come to their aid.

9. Section 21 of the Administrative Tribunals Act 1985, lays down that the Tribunal shall not admit application in a case where a final order has been made in connection with a grievance unless the application is made within one year from the date on which such final order has been made. Further, in a case where an appeal or representation has been made and a period of six months had expired thereafter Besides this, even if a particular applicant is deserving in merit, unless satisfactory explanation is given for the delay in filing the applicaiton, the delay cannot be condoned. In the present case, the applicants have not given any satisfactory explanation for condonation of delay in filing the application, 13 to 15 years after the cause of action had arisen without such final order having been made if application is made to Tribunal within one year from the date of

expiry of the said period of six months the application cannot be admitted.

10. The Applicants have relied on the judgements of the Hon. Supreme Court in the case of Collector Land Acquisition Anantnag and Another supra for condonation of delay. Each case has to be decided on its own merits and there are several pronouncements of the Hon'ble Supreme Court wherein it has been held time and again that delay and lached do not help the applicant and the Tribunals also should not entertain applications which are not filed within the stipulated period unless there is a convincing explanation for the delay one cannot consider condoning the delay. Therefore the MP.659/2000 seeking condonation of delay is rejected and the OA also deserves to be dismissed on the ground of limitation, delay and laches

11. Even on merits I find that the applicants have not produced any material to show that they had been appointed as ZLinesman which is a Group "C" post at any time. It is a mere statement made by the applicants that they worked for more than 240 days but without any supporting documents. Moreover I agree with the respondents that being a group "C" post, it can be filled only through Group "D" employees. In the absence of any record or documents, it is not possible to consider the relief being claimed by the applicants in this case.

11. I am therefore unable to grant any relief in the matter.
The OA being devoid of merit ^{and} is dismissed. I do not order any costs.

Shanta F
(SHANTA SHAstry)
MEMBER(A)