

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH



Original Application No. 383/1991
Transfer Application No.

Date of Decision : 17.4.96

N.A.Kazi.

Petitioner

Shri K.B.Talreja

Advocate for the
Petitioners

Versus

Union of India & Ors.

Respondents

Shri S.C.Dhawan.


Advocate for the
respondents

C O R A M :

The Hon'ble Shri B.S.Hegde, Member(J),

The Hon'ble Shri M.R.Kolhatkar, Member(A).

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


(B.S.HEGDE)
MEMBER(J).

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
BOMBAY BENCH, BOMBAY.

ORIGINAL APPLICATION NO. 383 of 1991.

Coram: Hon'ble Shri B.S.Hegde, Member(J),
Hon'ble Shri M.R.Kolhatkar, Member(A).

17th, this day of April, 1996.

N.A.Kazi. ... Applicant.
(By Advocate Shri K.B.Talreja).
V/s.

Union of India & Ors. ... Respondents.
(By Advocate Shri S.C.Dhawan).

O R D E R

(Per Shri B.S.Hegde, Member(J)).

In this Original Application, the main grievance of the applicant is that though he had worked as a Lineman in casual capacity w.e.f. 8.6.1973 to 1985, but was paid as Khalasi w.e.f. 28.5.1976 and Helper Khalasi from 1.1.1984. Though his juniors have been regularised as Lineman, but he was denied that promotion/appointment. In the circumstances, the applicant has prayed that he should be paid for the post for which he has been utilised and should be regularised in a skilled post Lineman instead of Khalasi/Helper Khalasi which is in the scale of Rs.950-1500.

2. We have heard Shri K.B.Talreja, counsel for the applicant, Shri S.C.Dhawan, counsel for the Respondents and also perused the pleadings.

3. The admitted facts are that the applicant was initially appointed as daily rated Casual Lineman w.e.f. 8.6.1973 and he worked as casual rated Lineman intermittently till 28.5.1976. There was a strike in the Railways in 1975, after the strike was over the Respondent Department introduced a scheme to reward the loyal workers who helped the Respondent

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Department to run the Railways during the strike period and those who had rendered services during the strike period, such of those people have been absorbed in the Railways depending upon type of work they were doing and the qualifications obtained at that point of time. Accordingly, the applicant was one of such beneficiary and was selected for regular posting as Khalasi against the quota reserved for loyal workers. The applicant was screened and found suitable for absorption in Class.IV post as a regular Khalasi and appointment letter was issued on 28.5.1976 which he accepted without any protest and worked in that capacity till he was further promoted as 'Helper Khalasi' in the scale of Rs.800-1150. Thereafter, his name was listed in the seniority list of Class.IV employees. As per the seniority list, the applicant was promoted as Helper Khalasi on 1.1.1984 and he accepted the said promotion. Thereafter, the applicant's name ceased to exist in the list of Casual Lineman or subsequent list of Casual Lineman from 28.5.1976.

4. In the year 1989, the Railway Board introduced a scheme of De-Casualisation for skilled Casual Artisans working in Electrical Traction Department and sanctioned 89 posts for filling up from the category of skilled Casual Artisans who were working as such in the year 1989. As per the seniority of Casual Skilled Artisans those who were eligible were absorbed against those posts. The applicant herein having already accepted the regular posting of Class.IV Khalasi in the year 1976 he was no longer in the list of skilled Artisans, therefore, not entitled to the benefit of the scheme

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of De-Casualisation.

5. The Respondents in their reply denied the various contentions of the applicant. The learned counsel for the Respondents Shri S.S.Dhawan raised a preliminary objection in entertaining this application, firstly, because the application is hopelessly barred by time and further this Tribunal does not have jurisdiction to go into the matter as the relief claimed is from 1973 onwards. Since he has not made out any case, the application is required to be dismissed. Further, he also urged that the applicant has not disclosed the correct facts and suppressed the true facts i.e. he was screened and found suitable for absorption in Class.IV post some time in 1976 and from 1973 to 1976 he was working as daily rated Casual Lineman, as a substitute till 1976 and he was paid accordingly, In 1976 he had been absorbed as Class IV employee and he has also passed the medical examination in 'B' Category and was further promoted as Helper Khalasi in the year 1984. After 1976 he was no longer in the list of Casual Lineman or Skilled Artisan and hence he was not entitled to be called for trade test in 1988. During the course of hearing, it is made out that the applicant had appeared for trade test, but had not passed in the test for Lineman. Having been regularised in the post of Khalasi in the year 1976 he cannot seek any further relief against 89 posts of De-Casualisation done in 1989 on the basis of De-Casualisation scheme.

6. The learned counsel for the applicant during the course of hearing drew our attention to the decisions of the Tribunal in O.A. No.121/91 A.R.Chauhan V/s. Union of India & Ors, O.A. No.359/89 Satish Kumar Sharma & Ors. V/s. Union of India & Ors., O.A. No.104/91 T.K.Rajendran V/s. Union of

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India & Ors. On a perusal of the respective decisions we find that the decisions were rendered on the basis of the relevant facts of the case and there is no general guidelines or ratio laid down in those cases. Therefore, those decisions are not applicable to the facts of this case. In the instant case since the applicant did not pass the trade test he has been regularised in the post of Khalasi in 1976, he cannot seek for any further relief under the De-Casualisation scheme which came into force in 1989.

7. The learned counsel for the Respondents Shri S.C.Dhawan also drew our attention to various Annexures annexed by the applicant and urged that the contention made by the applicant is far from truth and not based on records and even Annexure-3A clearly speaks for 1973 to 74 and not as alleged by the applicant from 1973 to 1985 he has been working as a Casual Lineman. The same is in Annexure-5 which does not show anything that he was working as Lineman till 1982. It is incorrect to state that he has been utilised as a Lineman through out till he was absorbed as Khalasi in 1976. Even the Attendance Register does not show that he has been working as a Lineman. Since he is not shown any documentary proof that he has been working as a Lineman from 1973 to 1985 the application is required to be dismissed, as the same is based on no evidence. Further he has not exhausted the remedial measures before approaching the Tribunal. So far as the limitation is concerned, he draws our attention to the Full Bench decision in K.K.Narang V/s. Union of India & Ors. (Full Bench Judgments of Central

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Administrative Tribunals 1991-1994) where the Tribunal observed as follows:

"After careful perusal of the averments in the application, we find that the grievance of the applicant is stale and cannot be entertained after such a long delay. This Tribunal has no jurisdiction to entertain any application in regard to grievance which arose more than 3 years prior to the commencement of the Administrative Tribunals Act only. Since the grievance of the applicant in this case has arisen in the year 1978, we are of the view that we have no jurisdiction to entertain the application."

Further, in Bhoop Singh V/s. Union of India & Others (A.I.R. 1992 S.C. 1414) the Apex Court held that it is expected of the government servant who has a legitimate claim to approach the Court for relief he seeks within a reasonable time, assuming no fixed period of limitation applies. This is necessary to avoid dislocating the administrative set-up after it has been functioning on a certain basis for years; unless the delay is satisfactorily explained is not attributable to the applicant, such stale claims are not to be entertained. Inordinate delay and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. We are of the opinion, that this application apart from the bald statement stating that the application is within time, pleadings do not give any material in this behalf that the application is filed within time. Admittedly, this claim relates to the period from 1973 onwards. There are serious lapse on the part of the applicant in approaching the Tribunal after a lapse of nearly three decades. Therefore, in view of the Apex Court's observation in K.R. Mudgal and Ors. V/s. R.P. Singh and Ors. (1987 S.C.C. (Lab) 6) wherein it is clearly held that the Courts should not entertain petitions challenging seniority after


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inordinate delay.

8. In the result, in our view, the application is devoid of merits and further the application is barred by limitation and this Tribunal cannot entertain stale claims prior to 1982 in the light of the observation made by the Apex Court referred to above. Accordingly, the O.A. is dismissed. No orders as to costs.


(M.R. KOLHATKAR)
MEMBER (A)


(B.S. HEGDE)
MEMBER (J).

B.