

26/11/96

(9)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No. 123/92

Transfer Application No.

Date of Decision 16.12.96

V.G.Ashtikar

Petitioner/s

Shri L.M.Berlekar

Advocate for  
the Petitioners

Versus

DRM, C.Rly, Bombay V.T.

Respondent/s

Shri V.S.Masurkar

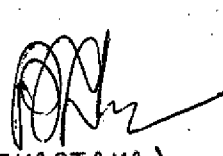
Advocate for  
the Respondents


CORAM :

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

Hon'ble Shri. P.P.Srivastava, Member (A)

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

  
(P.P.SRIVASTAVA)  
MEMBER (A)

  
(B.S. HEGDE)  
MEMBER (J)

Members (1)  
may kindly be  
ALL

(10)  
BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH, MUMBAI

OA.NO. 123/92

16th this the day of December 1996.

CORAM: Hon'ble Shri B.S.Hegde, Member (J)  
Hon'ble Shri P.P.Srivastava, Member (A)

Vaijyanath Govindrao Ashtikar  
Motorman, DRM's Office,  
Central Railway, Bombay V.T.

By Advocate Shri L.M.Nerlekar ... Applicant  
V/S.

Divisional Railway Manager,  
Central Railway,  
Bombay V.T.

By Advocate Shri V.S.Masurkar ... Respondents  
C.G.S.C.

O R D E R

(PER: Shri P.P.Srivastava, Member (A))

The applicant submits that he was appointed on Khandwa - Hingori Railway construction project on 29.10.1955. He worked there upto 1964. Then he worked under Executive Engineer, Betul upto the end of 1967. The applicant submits that he applied for the post of Mistry and was absorbed as Mistry from 2.1.1964 in Betul Division. He was later on transferred to Bombay Division. In this OA. the applicant has claimed that his service from 29.10.1955 till 2.1.1964 on various construction projects should be counted for pensionary benefits.



2. The respondents have brought out that the records show that the applicant was working as temporary Mistry on 2.1.1964 and his service was counted from 2.1.1964 and the applicant has also signed the service record wherein his date of appointment is shown as 2.1.1964. The respondents have submitted that the claim is time barred as the applicant has only applied for the first time in 1990 about counting his service before 1964. The respondents have further submitted that the records are not available and the applicant has not raised the question of previous service when he was appointed as Works Mistry on 2.1.1964.

3. The applicant's counsel has argued that this is a case wherein the applicant's pensionary benefits are involved and therefore it is a continuing cause of action and the question of delay cannot come in the way of the applicant.

4. The Learned counsel for the applicant has also argued that on his representation the respondents have sought particulars from various authorities to give benefit to the applicant.

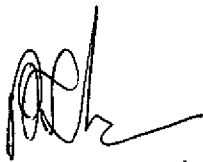
5. The Learned counsel for the applicant has also submitted that signatures of the applicant in the service record cannot be taken as admission that the past service rendered could not be taken



as for the purpose of pensionary benefits.

6. After considering the arguments of both the counsels on the question of limitation, we are of the opinion that this is not a case of continuing cause of action. The applicant has raised the counting of his service from 1955 to 1964 for the first time in 1990. The question relates to counting of the service from the year 1964 and is hopelessly time barred. The delay of filing representation and of filing of OA. is not explained.

7. Substantially, therefore, we are of the opinion that the OA. suffers from limitation and is dismissed as barred by limitation. There will be no order as to the costs.



(P.P. SRIVASTAVA)  
MEMBER (A)



(B.S. HEGDE)  
MEMBER (J)

mrj.