

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO. 1050/93

Tuesday this the 25th day of April, 2000.

CORAM : Hon'ble Shri Justice Ashok Agarwal, Chairman
Hon'ble Shri D.S.Baweja, Member (J)

Rajendra Kashinath Badgujar,
R/o. At Post-Phagne,
Tal. & Dist. Dhule.

...Applicant

By Advocate Shri D.V.Gangal

V/S.

1. Bridge Engineer,
Central Railway,
Manmad.
2. Chief Engineer,
Central Railway,
Byculla, Bombay.
3. General Manager,
Central railway,
Manmad.
4. Union of India
through the Respondent No. 1. Respondents

By Advocate Shri S.C.Dhawan

O R D E R (ORAL)

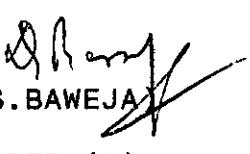
{Per: Shri Justice Ashok Agarwal, Chairman}

An order passed on 17.5.1993 terminating the services of
the applicant is impugned in the present OA.



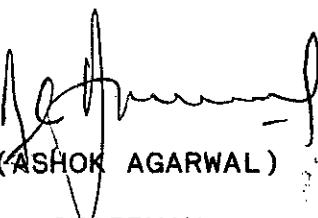
2. Applicant was engaged as a Project Labour Casual Khalasi w.e.f. 23.12.1987. His services have been terminated by the impugned order passed on 17.5.1993 on the ground that the project on which he was engaged as a casual labourer is no longer available. The applicant has continued to be a casual labourer on the project till the date of termination. He has been in service as a Monthly Rated Casual Labourer. No orders have been issued granting him temporary status. In the circumstances, no exception can be had to the impugned order of termination which has been issued on the ground that the project on which his services were engaged was no longer available. The applicant has been terminated by issue of one month's notice. He had been paid wages during the notice period as also retrenchment compensation. In the circumstances, we have no hesitation in holding that the impugned order cannot be successfully assailed by the present OA.

3. The case of the applicant is similar to the applicant in the case of Allwyn John Shikari vs. Bridge Engineer, Central Railway, Manmad, OA.NO.1049/93 decided on 24.11.1999, on facts identical to the ones arising in the present OA., the order of termination which is the very same order which is impugned here has been maintained and the aforesaid OA. has been dismissed. In the circumstances, we are constrained to hold that the present OA. is devoid of merit and the same is accordingly dismissed. There will be, however, no order as to costs.


(D.S. BAWEJA)

MEMBER (A)

mrj.


(ASHOK AGARWAL)

CHAIRMAN

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

R.P.69/2000 IN O.A.1050/93

DATED: 27th March 2001

CORAM:HON'BLE SHRI S.L.JAIN, MEMBER(J)
HON'BLE SMT.SHANTA SHAstry, MEMBER(A)

Shri Rajendra Kashinath Badgujor ... Applicant

By Advocate Shri D.V.Gangal

V/s.

Union of India & Ors. ... Respondents

By Advocate Shri S.C.Dhawan

(ORDER)

Per Smt.Shanta Shastry, Member(A)

This Review Application has been moved by the applicant in OA 1050/93 which was disposed of on 25/4/2000. The OA was dismissed with the following observations:-

"the case of the applicant is similar to the applicant in the case of Allwyn John Shikari V/s. Bridge Engineer, Central Railway, Manmad in OA 1049/93 decided on 24/11/99. On facts identical to the ones arising in the present OA, the order of termination which is the very same order which is impugned order has been maintained and the aforesaid OA has been dismissed. In the circumstances, we are constrained to hold that the present OA is devoid of merit and the same is accordingly dismissed."

2. The review application has been filed on 27/9/2000. There is thus a delay of four months in filing the same. It should have been filed within one month of the receipt of the copy of the order. The applicant has filed an application for condonation of delay. The applicant submits that he received the copy of the order on 1/5/2000. However, the applicant was

...2.

hopeful about his case being decided by the recognised Union, i.e. National Railway Mazdoor Union who had taken up his case. He had also represented to the Union. Correspondence was exchanged between the Railway Authorities. Also the applicant was trying to get a copy of the judgement in OA-1049/93 which formed the basis for the decision in his own OA No.1050/93. This took considerable time and it is only after getting the copy of that order on 22/9/2000 that he discovered the error apparent on the face of the record. He has therefore prayed to condone the delay and to consider his case on merits as laid down by the Supreme Court in Collector Land Acquisition Anantnag V/s. M.Katiji in AIR 1987 SC 1353.

3. We are unable to accept the applicant's explanation. There is a delay. Therefore this Review Petition deserves to be dismissed on the ground of limitation itself. Even on merits, the review is not called for.

4. It is the contention of the Review applicant that since his case was decided on the basis of the decision in OA No.1049/93, the observations given in that OA would apply in the present case also. In OA 1049/93, the order passed on 24/02/99 was as follows:-

"Therefore we cannot grant any relief to the applicant. It may be that even casual labourer whose services have been terminated may be entitled to regularisation under the regularisation scheme, provided the applicant has the required service eligibility qualification and other conditions mentioned in the regularisation scheme, and subject of course, to his seniority. This the applicant will get in the usual course of time, he is entitled to the same under the Rules."

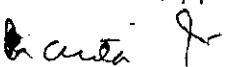
5. Moreover such a cause of action of subjecting are certain delivery establishment for constant review strikes of some other undesirable aims in view rather than similar to OA 1049/93. The applicant has therefore prayed for review to grant the benefit of regularisation which was granted to Shri Allwyn John Shikari in OA 1049/93.

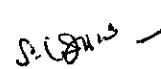
6. The applicant has also filed MP for condonation of delay.

7. We have heard the learned counsel for the applicant as well as the respondents. The applicants argument is based on the fact that while the Tribunal decided the applicant's case observing that it was identical in all respects to OA 1049/93, the Tribunal in the applicant's case did not pass identical directions as given in OA 1049/93. In our view the applicant is seeking additional relief which was not granted, by moving this review application. This is beyond the scope of a review application.

8. The applicant has not brought out any new grounds for reconsideration of relief. The decision in the OA-1049/93 was very much before the Tribunal when the applicant's case was decided. However, the Tribunal did not choose to add the relief regarding the entitlement of a casual labourer for regularisation even though the services had been terminated. In our view there is no error apparent on the face of the record. No new plea has been raised. No new material facts have been brought to the notice of the Tribunal.

7. In our considered view, this is not a fit case for a review. Both on merits as well as on the ground of limitation the Review Application is rejected.


(SHANTA SHASTRY)
MEMBER(A)


(S.L.JAIN)
MEMBER(J)