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CENTRAL ADMINISTRATIVE TRIBUNAL  
BENCH AT MUMBAI

ORIGINAL APPLICATION NO. 209/93.

Date of Decision: 2/2/99

Shri Dinkar Hari Patil & 110rs. Petitioner/s

Shri D.V.Gangal Advocate for the  
Petitioner/s.

v/s.

Union of India & 20rs. Respondent/s

Shri R.K.Shetty Advocate for the  
Respondent/s

CORAM:

Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.

Hon'ble Shri D.S.Baweja, Member (A).

(1) To be referred to the Reporter or not? *W*

(2) Whether it needs to be circulated to *W*  
other Benches of the Tribunal?

abp.

*R.G.VAIDYANATHA*  
VICE CHAIRMAN

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL  
GULESTAN BLDG. NO. 6, 4TH FLR, PRESCOT RD, FORT,  
MUMBAI-400 001.

ORIGINAL APPLICATION NO: 209/93.  
DATED THE 2ND DAY OF FEBRUARY, 1999.

CORAM: Hon'ble Shri Justice R.G.Vaidyanatha, Vice Chairman.  
Hon'ble Shri D.S.Baweja, Member(A).

- 1) Dinkar Hari Patil
- 2) Rajendrakumar Purushottam Bhangale
- 3) Prakash Sonu Mali
- 4) Dinkar Madhavrao Deshmukh
- 5) Arun Vishnu Mali
- 6) Vijay Baburao Bangale
- 7) Pramod Vasudeo Pateil
- 8) Subhash Bhagwat Mahajan
- 9) Rajendra Tukaram Patil
- 10) Nivrutti Purushottam Bhangale
- 11) Prabhakar Totaram Wankhede
- 12) Sanjay Krishna Ikhankar

C/o. Pratirakha Majdoor Sangh,  
President,  
Quarter No. 206/B/Type-II,  
Ordnance Factory Estate,  
Varangaon,  
Dist. Jalgaon,  
Pin-425308.

... Applicants.

By Advocate Shri D.V.Gangal.

v/s.

- 1) The Union of India, through,  
Secretary,  
Ministry of Defence Department.  
of Defence Production,  
South Block, New Delhi.
- 2) The Chairman and Director General,  
Ordnance Factory  
10A Auckland Road,  
Calcutta - 700 001.
- 3) General Manager,  
Ordnance Factory,  
Varangaon - 425 308.

... Respondents.

By Advocate Shri R.K.Shetty.

I ORDER I

I Per Shri R.G.Vaidyanatha, V.C. I

This is an application filed under section-19 of  
Administrative Tribunals Act. Respondents have filed reply.  
Applicants have filed MP-189/93 for condonation of delay.

We have heard the learned counsel appearing on both sides.

2. Applicants who are 12 in number have approached this Tribunal for a direction to respondents to appoint them as Labour B with all consequential benefits. Their case is that the respondents initiated recruitment process for selection of men for the post 'Labour B' and in that selection all the applicants came to be selected. They were issued call letters. But subsequently, the applicants were not appointed. Number of representations given by Applicants and Union went unanswered, that is why they have approached this Tribunal for the reliefs mentioned above.

The applicants have also filed MP-189/93 for condonation of delay. Their case is that there is no question of limitation at all. Alternatively, even if there is delay, they have got sufficient case for condonation of delay since they had sent number of representations and there is no reply by the respondents. Therefore, they have prayed that the delay, if any, may be condoned.

3. The respondents case is that number of candidates in the select panel could not be appointed since they had to appoint many persons on Compassionate appointment scheme. They had to appoint the candidates who lost lands for defense projects. Besides, they also had to appoint Physically handicapped, SC/ST candidates sponsored by Employment Exchange. In view of these circumstances, there were not enough available vacancies for appointing the applicants. According to them 70 selected candidates were kept in wait list including applicants and they could not be appointed for want of vacancies. Then, they have also referred to a ban on recruitment and this was the additional reason/for not appointing the applicants.

Though we have heard both counsels at length

for

on merits, we find that the application suffers from delay/ and latches besides limitation.

We are concerned with a recruitment of the year 1982 and the applicants want the select panel prepared in 1982 to be enforced by filing the present application in 1993. They have approached this Tribunal 11 years after they have been issued ~~call letters~~ in pursuance of the select panel prepared in 1982. In our view, the application is hopelessly barred by limitation.

4. Even granting for a moment that the question of limitation is not there as contended by applicants, the application is certainly barred by Principles of delay/ and latches. A Court or Tribunal cannot enforce a stale claim or a highly belated claim. The reasons given for condonation of delay or to explain delay in the MP does not appeal to us. Merely sending repeated representations does not arrest limitation. Even after sending representations, if there is no reply/ from the respondents, the applicants could have approached a Court or Tribunal for redressing their grievance. They cannot sit at home sending representations for 10 years and come to Tribunal in the 11th year. The application is barred by Principles of delay and latches besides limitation. Therefore, MP-189/93 deserves to be and is hereby dismissed as a result the OA is liable to be dismissed on the ground of limitation, delay and latches.

5. In view of the above finding on the question of delay and latches, it is not necessary to go into the question of merits. However, even on merits, we find that the applicants have no better case. As rightly argued on behalf of respondents, in judgement of Supreme Court reported in 1995(1)SLJ SC (9) I U.P. Bhumi Sudhar Nigam Ltd v/s. Shiv Narain Gupta I held that

"existence of vacancies does not confer a legal right on a selected candidate to be appointed

unless the rules provide specifically to the contrary."

that no person in the select panel has a vested or undeserved right to claim that he must be appointed once his name is selected. Therefore, the applicants do not have vested right to be appointed to the post in question. No doubt the applicants came to be selected in 1982 and they were not issued appointment order.

6. Respondents have explained that there were many persons who had lost their land in defence projects and there were cases of compassionate appointment whose father or Guardian had died in harness. Then they had to appoint physically handicapped persons and SC/ST who had been sponsored by Employment Exchange., and finally they have explained that they had tried to get special sanction for accomodating these persons.

Under these circumstances, there is no malafides and as early as on 15/11/83, the respondents have written to the Employment Exchange (vide letter dated 15/11/83 at page-90 of paper book) stating that 70 candidates were still kept in the waiting list and that due to non-availability of vacancies these candidates could not be appointed and they had requested the Employment Exchange to continue their registration in the Employment Exchange Register. Names of 70 candidates is annexed to R-1 (page-91 of paper book) which includes the names of the applicants. This shows that the respondents saw to it that the applicants do not suffer and their names should not be cancelled from the Employment Exchange Register.

7. Though we have all our sympathies for the applicants who could not be appointed inspite of being selected in 1982, in the facts and circumstances of the case, no case is made out for granting any relief.

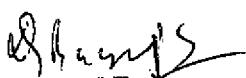


We also do not see any merit in the argument that the panel once prepared is to be kept alive till all the candidates in the list are appointed. In circular of Government of India of 1982, it is clearly mentioned that it refers to selection of candidates as per existing vacancies. If vacancies are not available, or there is a recruitment ban, or the vacancies are filled up due to compassionate appointment, etc, then the panel cannot be continued for future vacancies.

We do not find any merit in the arguments of the learned counsel for applicant that the administration must be directed to appoint the applicants if there are existing vacancies as on today.

In the facts and circumstances of the case, we find that no case is made out and the OA is liable to be dismissed.

8. In the result both OA-209/93 and MP-189/93 are hereby dismissed. No costs.

  
(D.S. BAWDIA)  
MEMBER (A)

  
(R.G. VAIDYANATHA)  
VICE CHAIRMAN

abp.