

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO: 1447/94

DATE OF DECISION: 6/6/2000

\_\_\_\_\_Mr. Munir Khan Kader Khan\_\_\_\_\_Applicant.

Shri S.V. Marne

-----Advocate for  
Applicant.

Versus

Union of India & 2 Ors.

-----Respondents.

Shri V.S. Masurkar

-----Advocate for  
Respondents.

CORAM:

Hon'ble Shri B.N. Bahadur, Member(A).  
Hon'ble Shri S.L. Jain, Member(J)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to  
other Benches of the Tribunal?
3. Library.

} No

*BS*

(B.N. BAHADUR)  
MEMBER(A)

abp

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MUMBAI BENCH

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DATE OF DECISION: 08/2000

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(B.N. BAHADUR)  
MEMBER(A)

apb

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION: 1447/94  
DATED THE 5TH DAY OF JUNE, 2000

CORAM: HON'BLE SHRI B.N. BAHADUR, MEMBER(A)  
HON'BLE SHRI S.L. JAIN, MEMBER(J)

Munir Khan Kader Khan,  
decategoryed Khalasi  
IOW (MOD), Manmad, residing  
at Navjivan Housing Society,  
Anand Wadi, Block No.9/B,  
Satana Road, Manmad-423 104.  
Dist.: Nasik.

... Applicant.

By Advocate Shri S.V. Marne

V/s.

1. Union of India, through  
General Manager,  
Central Railway, H.Q. Office,  
Bori Bunder, V.T., Fort,  
Bombay - 400 001.
2. Divisional Railway Manager,  
Central Railway, Bhusawal.
3. Executive Engineer (Mod.),  
Engineering Department,  
Central Railway, Manmad.

... Respondents

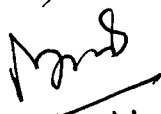
By Advocate Shri V.S. Masurkar

(ORAL) (ORDER)

Per Shri B.N. Bahadur, Member(A)

This is an application made by Shri Munir Khan Kader Khan, decategoryed Khalasi, seeking the relief from this Tribunal, in substance, that the Tribunal direct the Respondents to offer him a sedentary job.

2. we have perused the papers in the case and heard, at length, the Learned Counsels on both sides.



...2.

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH  
ORIGINAL APPLICATION:1447/94  
DATED THE 15TH DAY OF JUNE, 2000

CORAM:HON'BLE SHRI B.N.BAHADUR, MEMBER(A)  
HON'BLE SHRI S.L.JAIN, MEMBER(1)

Munir Khan Kader Khan,  
deceased  
104 (110), Manned, residing  
at (110) Housing Society,  
Block No. 9/B,  
Sahar Road, Mumbai-400 104.  
Dist: Maharashtra.

By Advocate Shri S.V.Mane

V/s.

1. Union of India, through  
General Manager,  
Central Railway, H.O. Office,  
Bor Road, V.T., Fort,  
Bombay - 400 001.

2. Divisional Railway Manager,  
Central Railway, Bhusawal.

3. Executive Engineer (Mod.),  
Engineering Department,  
Central Railway, Mumbai.

By Advocate Shri V.S.Masurkar

(ORAL) (ORDER)

Per Shri B.N.Bahadur, Member(A)

This is an application made by Shri Munir Khan Kader Khan  
deceased seeking the relief from this Tribunal in  
substance that the Tribunal direct the Respondents to offer him a  
decent job.

2. We have perused the papers in the case and heard at  
length the learned Counsel on both sides.

3.

3. It is unfortunate that applicant had met with an accident and, after efforts, the Respondents Department was unable to provide him with any other job in their Department. While we have heard the arguments on merits also, we are bound to first decide the issue relating to limitation as was raised by Learned Counsel for the Respondents. It would be important and necessary for this Tribunal to go into this aspect of limitation in view of several judgements on this aspect by the Hon'ble Supreme Court.

4. The stand taken by the Respondents on this aspect is described in their statement at para-5 and then para-19. It has been argued that the applicant is challenging the order of the Respondents dated 3/7/91 by this Original Application, which was filed on 22/11/95 and that there was unexplained delay of five years in approaching the Tribunal. Respondents seek support from the case of Bhoot Singh V/s. Union of India, AIR 1992 SC 1414 decided by Supreme Court. A very recent judgement of the Hon'ble Supreme Court in the case of R.C.Sharma v/s. Udham Singh Kamal (AISLJ 2000 (2) 89) has also been cited by Learned Counsel for Respondents.

5. In para-19 of the written statement, filed by the Respondents, it has been further stated that the applicant was kept on leave from 13/6/91 to 1/1/92, as provided under the rules, and attempts were made to search out a suitable job for him but when the same could not be arranged, the applicant was discontinued from service w.e.f. 2/1/92 and he was informed accordingly by Respondents vide letter dated 28/2/92.

B.S.

...3.

3. It is unfortunate that applicant has met with an accident and after efforts the Respondents Department was unable to provide him with any other job in their Department. While we have heard the arguments on merits also, we are bound to first decide the issue relating to limitation as was raised by learned counsel for the Respondents. It would be important and necessary for this Tribunal to go into this aspect of limitation in view of several judgements on this aspect by the Hon'ble Supreme Court.

4. The stand taken by the Respondents on this aspect is described in their statement at para-5 and then para-12. It has been argued that the applicant is challenging the order of the Respondents dated 27/7/91 by this Original Application which was filed on 25/11/95 and that there was unexplained delay of five years in approaching the Tribunal. Respondents seeking support from the case of Bhoot Singh V/s. Union of India, AIR 1992 SC 1444 decided by Supreme Court. A very recent judgement of the Hon'ble Supreme Court in the case of R.C. Sharma V/s. Union of India (AIR 2000 (2) 89) has also been cited by learned counsel for Respondents.

5. In para-19 of the written statement, filed by the Respondents, it has been further stated that the applicant was kept on leave from 13/6/91 to 1/1/92 as provided under the rules and attempts were made to search out a suitable job for him but when the same could not be arranged, the applicant was discontinued from service w.e.f. 2/1/92 and he was informed accordingly by Respondents vide letter dated 28/2/92.

...3.

6. It is amply clear that there has been an unexplained delay in the matter <sup>ms</sup> of filing of the OA but the Learned Counsel for Applicant has mentioned that he had approached the Labour Enforcement Officer, etc. However, there is no doubt this is a case of delay and laches. On the last date of hearing, we had brought to the notice of Learned Counsel for Respondents that the letter of 28/2/92 whereby intimation was <sup>reportedly ms</sup> given was not produced by the Respondents. Opportunity was accorded to him to produce this letter which he has done today. The original letter addressed to the Applicant by DE/XEN(MOD)MMR, Executive Engineer, Manmad is produced for our perusal and attested copies provided. It is clear from this letter that the Applicant has been informed adequately of the position, and it is also seen that Applicant has signed on the said letter in token of its receipt on 29/2/92. Hence, there is no excuse and there is no reason why the delay and laches should be condoned, unfortunate as the case may be.

7. The Learned Counsel for the Applicant has argued on the point of limitation and prays the point that Applicant had taken steps in approaching the Labour Enforcement Officer as can be seen by letter on record at Page-20 and 21. Even if the period spent in approaching in other authority is excluded, as argued by Learned Counsel, Shri Marne, it is seen that even then Applicant does not get saved from being hit by limitation in view of the date of 4/9/92. It is also noted that the Applicant has not come up with any request for condonation of delay and, in this he is also affected by the ratio decided in the case of Sharma V/s. Udham Singh Kamal, quoted supra.

...4.



It is amply clear that there has been an unexplained delay in the matter, trifling of the OA but the Learned Counsel for Applicant has mentioned that he had approached the Labour Enforcement Officer, etc. However, there is no doubt that as a case of delay and laches. On the last date of hearing, we had brought to the notice of Learned Counsel for Respondents that the letter of 28\2\92 whereby information was given was not produced by the Respondents. Opportunity was accorded to him to produce this letter which he has done today. The original letter addressed to the Applicant by DE\XEN(MOD)MMR, Executive Engineer, Namdam is produced for our perusal and attested copies provided. It is clear from this letter that the Applicant has been informed adequately of the position and it is also seen that Applicant has signed on the said letter in token of its receipt on 29\2\92. Hence, there is no excuse and there is no reason why the delay and laches should be condoned, unfortunate as the case may be.

The Learned Counsel for the Applicant has argued on the point of limitation and prays the point that Applicant had taken steps in approaching the Labour Enforcement Officer as can be seen by letter on record at Page-20 and 21. Even if the period spent in approaching in other authority is excluded as argued by Learned Counsel, Shri Harne, it is seen that even then Applicant does not get saved from being hit by limitation in view of the date of 4\9\92. It is also noted that the Applicant has not come up with any request for condonation of delay and in this he is also affected by the ratio decided in the case of Sharma V/s.

Udhham Singh J. (dissenting).



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1447.95

8. In view of the discussions above, this application cannot be allowed and is hereby dismissed. No costs.

*S.L. Jain*  
(S.L. JAIN)  
MEMBER(J)

*B.N. Bahadur*  
(B.N. BAHADUR)  
MEMBER(A)