

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

B.N.

(B.N. BAHADUR)
MEMBER(A)

abp

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO: 1447/84

DATE OF DECISION: 6/6/2000

Mr. Munir Khan Kader Khan - Abbajee

Smti. S. V. Maitre

Advocate for
Abbajee

Expense

Union of India & S. Ors.

Respondents.

Smti. A. G. Maitre

Advocate for
Respondents.

CORAM:

Hon. Pje. Smti. B.N. Bagduri, Member (A)
Hon. Pje. Smti. S.L. Jain, Member (1)

1. To be referred to the Reporter or not?

2. Whether it needs to be adjourned to
other hearing of the Tribunal?

3. Library.

(B.N. BAHADUR)
MEMBER (A)

gpb

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,
decategorised 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

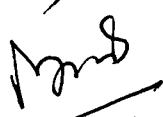
(ORAL) (ORDER)

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

This is an application made by Shri Munir Khan Kader Khan, decategorised 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.



DATED THE 11TH DAY OF JUNE, 2000
ORIGINATOR APPLICATION: 1447\84
UMBIAI BENCH
CENTRAL ADMINISTRATIVE TRIBUNAL

HON. MR. SHRI S.L. JAIN, MEMBER(1) HON. MR. SHRI B.N. BAHADUR, MEMBER(A)

84 Aduocafe Shri M. V. S. Rathore

.2\w

Bompaay - 400 001
Balki Bunder, A.T., Fort
Central Raymajay. H.Q. Office,
General Manager,
Union of India, Mumbai

3. Draw a line from each number to its correct category.

3. **EXECUTIVE DEBUGGER**
4. **EXECUTIVE DEBUGGER (Mod.)**

(ORAF) (ORDER)

per Shri B.N. Basu, Mewar (A)

This is an application for a position as a Receptionist at the **Monte Carlo Hotel** in **Monte Carlo**, **Monaco**. I am a **22-year-old** female with **2 years** of experience in the **Customer Service** industry. I am **fluent** in **French** and **English**, and I have **basic** **knowledge** of **Spanish**. I am **available** **immediately** and **looking** **for** a **full-time** **position**.

5. We have discussed the babies in the case and heard at
judo the Leaded Contagies on both sides.

.5...

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. Udhamp 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.

A handwritten signature consisting of a stylized 'B' and 'S' with a horizontal line underneath.

...3.

6. It is amply clear that there has been an unexplained delay in the matter 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 ~~given~~ reportedly 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. Udhamp Singh Kamal, quoted supra.

....4.



1447\82

g. If it is simply easier that there has been an unexpected letter to the minister, this kind of file OA put the Learned Counsel for Addington has written that he had approached the Law Officer of the Government of India, etc. However, there is no doubt this is a case of déjà vu and I believe. On the last date of hearing, we had prompt to the notice of Learned Counsel for Respondents that the letter of 28\5\82 which I mentioned was given was not produced by the Respondent. Unfortunately was accorded to him to produce this, after which he has done today. The original letter addressed to the Appellant by DE\XEN(MOD)MMR, Executive Engineer, was issued a demand for our release and affected copies produced. It is clear from this letter that the Appellant has been informed already of the position and it is also seen that Appellant has already done so that said letter is known to the recipient on 28\5\82.

Here, there is no excuse and there is no reason why the déjà vu which should be condemned, unfortunately as the case may be.

It is Learned Counsel for the Appellant has argued on the basis of limitation and please file both the point that Appellant had taken steps in approaching the Law Officer Executive Engineer Officer as can be seen by letter on record of Page-50 and 51. Even if the hearing starts in the afternoon it is often authority is excluded as argued by Learned Counsel, Shri Maru, it is seen that even the Appellant does not get a few minutes to file his limitation in view of the date of 4\6\82. It is also noted that the Appellant has not come up with any reasoning for condonation of déjà vu and in this he is also ineffective by the ratio decided in the case of Sharwan v/s. National Supply Fund dropped earlier.

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

SWRKS

(S.L.JAIN)
MEMBER(J)

B.N.BAHADUR

(B.N.BAHADUR)
MEMBER(A)