

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

Original Application No. 667/95

Transfer Application No. _____

Date of Decision 1. 10. 96

Mohan Pandurang Kolamkar

Petitioner/s

Shri D.V. Gangal

Advocate for
the Petitioners

Versus

Union of India & Others

Respondent/s

• Shri S.S. Karkera for Shri P.M.
Pradhan.


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 ?


(B.S. Hegde)
Member (J)

ssp.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, GULESTAN BUILDING NO. 6
PRESCOT ROAD, FORT, MUMBAI 400001.

ORIGINAL APPLICATION NO. 667/95.

Dated this 1st day of ~~September~~ ^{October} 1996.

CORAM : 1) Hon'ble Shri B.S. Hegde, Member (J)
2) Hon'ble Shri P.P. Srivastava Member (A)

Mohan Pandurang Kolamkar
residing at Room No. 11
Sitaramsingh Achambar Singh
Chawl No. 2, Ambika Nagar
Majas Village, Jogeshwari
(East), Bombay 400 060.

(By advocate Shri D.V.
Gangal)

...) Applicant

v/s

- 1) The Union of India
through the Chief Post
Master General,
General Post Office
Bombay 400 001.
- 2) The Senior Superintendent
of Post Office, Bombay
City West Division,
Dadar Post Office,
Bombay 400 014.
- 3) The Secretary to the
Govt. of India,
Dept. of Post,
Ministry of Communications
Sanchar Bhavan, New Delhi.

(By advocate Shri S.S.
Karkera for Shri P.M.
Pradhan, Central Govt.
Standing Counsel)

..) Respondents

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O R D E R

I Shri B.S. Hegde, Member (J) I

This O.A. has been filed not against any order passed by the Respondents but against the failure of the Respondents to absorb the applicant as Group 'D' Packer. The O.A. is not yet admitted. The applicant has filed an M.P. 635/95 for condonation of delay. The Respondents have filed reply to the M.P. as well as the O.A. opposing admission of the O.A. The applicant has also filed another M.P. 821/95 for production and inspection of the documents.

2. The contention of the applicant is that he has worked as a Group D packer from June 1980 to July 1980 on temporary basis and from 8-8-1981 to 15-11-1983 continuously without any break in service. He states that though he has worked on temporary basis and he continued to work from 8-8-1981 to 15-11-1983 and despite repeated reminders to the Respondents to absorb him in the service, the Respondents did not accede to his request. Further, it is submitted that the applicant is a handicapped person and also belonged to OBC. It is said in the O.A. that he has filed the O.A. within the stipulated time under section 21 of the A.T. Act. Nevertheless, he has filed M.P. for condonation of delay in filing this O.A. He also urged that he has sent letters

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from 1989 to 1995 to the Respondents requesting them to absorb him in the service but no reply has been sent by them. Therefore, in this O.A., the applicant is seeking regularisation from 8-8-1981 with continuity of service and full back wages etc. However, during the course of the hearing, the learned counsel for the applicant is good enough to concede that he will not be pressing for back wages except regularisation.

3. The Respondents in their reply repudiated the various contentions of the applicant and submit that the applicant was engaged as Outsider Group-D purely on daily wages basis and stop gap arrangement from July 1982 to 15th November 1983 and the applicant worked for 126 days in the year 1982 and 202 days in the year 1983 and thereafter he remained absent from 16th November 1983 for ever without any intimation to the competent authority. Further, he was not sponsored by the Employment Exchange and also not completed 240 days in the year 1981 to 1983. There is nothing on record to show that he attended thereafter. He remained absent from November 1983 without any intimation to the SPM Post Office; therefore, the contention of the Respondents that they discontinued his services cannot be assailed by the applicant at this belated date. Further, the representation of the applicant made in the year 1989 was duly considered by the Respondents and

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their reply was communicated as back as 5-1-1990 and 11-10-1990 respectively. It is noticed that disability certificate was produced only in 1995 and not during his appointment. The application is hopelessly barred by time as he remained silent for a period of nearly six years from 1983 to 1989 and thereafter preferred representation which was duly replied by the Respondents. It is further denied that he was working on temporary basis. As stated earlier, he was working on stop gap arrangement on daily wages basis. The applicant remained absent after 16-11-1983 and has not redressed his grievances within the time limit and approached the Tribunal for relief only after lapse of 12 years. He has not preferred any appeal against the rejection of his request to the higher authorities. The Respondents submit that in view of the Apex Court's decision in S.S. Rathod v/s State of M.P. - 1989 ATC 913 that the repeated representation does not/cause of action which is otherwise barred by limitation. Therefore, this petition is devoid of merit and the same is required to be dismissed.

4. Heard the learned counsel for the parties and perused the pleadings. On perusal of the pleadings, we find that the applicant has stated that the application is filed within time; nevertheless, he filed the M.P. for condonation of delay; both are contradictory statements.

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In fact, the applicant has filed the petition after a lapse of 12 years and the reasons advanced in the M.P. for condonation is not at all convincing and we are not agreeable with the contentions raised in the said M.P. for filing the belated O.A. There is nothing on record to show that the applicant was working on temporary basis and his absorption on regular basis is not based on material facts or on any rules. In this connection, the learned counsel for the Respondents also brought to our attention to the copy of the letter dated 12-4-1991 issued by the Respondents i.e. the Ministry of Communications, Department of Posts, New Delhi on Casual Labourers (Grant of Temporary status and Regularisation) Scheme wherein it states that temporary status would be conferred on the casual labourers in employment as on 29-11-1989 and who continue to be currently employed and have rendered continuous service of at least one year; during the year they must have been engaged for a period of 240 days (206 days in the case of offices observing 5 days weeks). No recruitment from open market for group D posts except compassionate appointment to be done till casual labourers with the requisite qualification are available to fill up the posts in question. The applicant did not come within the purview of the Scheme. Apart from the inordinate delay in filing the


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O.A., there is nothing on record to show that he has worked continuously for one year and on temporary basis.

5. In the result, we do not find any merit in the O.A. Therefore, the O.A. is liable to be dismissed at the admission stage itself. Accordingly, the O.A. is dismissed at the admission stage both on merit as well as limitation. No order as to costs.


(P.P. Srivastava)
Member (A)


(B.S. Hegde)
Member (J)

ssp.