

CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH.

Original Application No.202/1997.

Friday, this the 27th day of July, 2001.

Hon'ble Shri S.L.Jain, Member (J),
Hon'ble Shri V.K.Majotra, Member (A).

Smt.Janabai Yeshwant Shinde,
'Yeshwant Colony',
Behind Military Dairy Farm,
Ahmednagar - 414 002.
(By Advocate Shri V.D.Gandhi)

...Applicant.

V.

1. The Union of India
through Secretary,
Ministry of Defence,
South Block,
New Delhi.
2. The Quarter Master General
(QMG) QMG's Branch,
West Block - III, DHQ,
R.K.Puram,
New Delhi.
3. The Director General of
Military Farms (DDGMF),
Army Headquarters,
QMG's Branch,
West Block - III,
Wing No.7,
R.K.Puram,
New Delhi - 110 066.
4. The Director of Military Farms,
(DMF) Headquarters,
Southern Command,
Kirkee,
Pune - 3.
5. The Officer-in-Charge,
Military Farm,
Ahmednagar - 414 002.
(By Advocate Shri R.K.Shetty)

...Respondents.

: O R D E R (ORAL) :

Shri S.L.Jain, Member (J).

This is an application filed under section 19 of the Administrative Tribunals Act, 1985. The applicant is seeking the relief that after examining the legality and propriety of the order passed by the Assistant Labour Commissioner, Pune, direct

Signature ...2.

the Respondents to regularise the services of the applicant in Farm Hand w.e.f. 31.12.1990 and direct Respondent No.5 to grant all the benefit arising out of regularisation of service like salary, pay scale, increment and subsidiary allowance entitled to the Farm Hand post of the applicant. A further declaration of reinstatement with retrospective effect is also being sought by the applicant.

2. The OA has been accompanied by a delay condonation application. We find that condonation of delay is being sought on the ground that the applicant is illiterate and was not even knowing as to which correct appellate authority she has to approach. Therefore, she could not appeal/file the application in time. On consideration of the application, we find that illiteracy is not a ground to condone the delay. In addition to it, it is worth mentioning that the applicant who has persuaded the matter before the Assistant Labour Commissioner and the Ministry cannot be said to be ignorant of law. Even ignorance of law is not an excuse to condone the delay. As the applicant is challenging the order dt. 1.1.1991 and the OA is filed on 23rd September, 1996, we do not find any merit to condone the delay.

3. Even when the matter was agitated by the applicant before the Assistant Labour Commissioner has been finalised by the Ministry in the year 1993. Thereafter, there was no cause for the applicant in not coming to the Tribunal. Giving all benefits of Section 14 of the Limitation Act to the applicant, she must have filed the OA within one year after passing of the order dt.4.10.1993 (Annexure - 12). In the result, we do not find that OA is within limitation.

C. S. Sharma

4. The Learned Counsel for the Respondents relied on the case of Ramesh Chand Sharma etc. Vs. Udham Singh Kamal & Ors. (2000 (2) S.L.J. 89), which lays down the proposition that after an OA is ^{held} ~~meant~~ to be barred by limitation, it is ^{not} ~~is~~ necessary to examine the case on merits. The Learned Counsel for the Respondents ~~✓~~ further relied on Union of India and Anr. Vs. Kothiyal and Ors. (1999 SCC (L&S) 251), which lays down the proposition that repeated representations do not extend cause of action. We do not find that this is a case of repeated representation. Hence, the said authority does not apply to the present case.

5. Even if we have taken a view otherwise, our finding on merit is as below. The Respondents have stated in para 5 of their written statement the days of work which the applicant has performed from July, 1988 to December, 1990 which is as under:

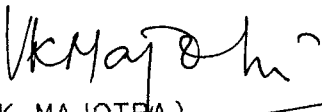
1988	-	132 days
1989	-	128 days (Jan. 89 to May, 89)
	-	158 days (Jul. 89 to Dec. 89)
		(Break period during June Month '89)
1990	-	070 days

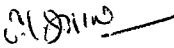
From the above statement, we find that the applicant has certainly worked for a period of more than 240 days in the year 1989. The Respondents have admitted that she has worked for 286 days in two spells viz. Ja. 1989 to May, 1989 and July. 89 to Dec. 89.

Dr. G. M. —

6. The Learned Counsel for the Respondents during the course of arguments stated that if the work is available, they will provide the work to the applicant.

7. In the circumstances, the OA is disposed of as barred by time. But in view of the concession made and the facts on record, we direct the Respondents to provide work to the applicant as and when available. No orders as to costs.


(V.K. MAJOTRA)
MEMBER(A)


(S.L. JAIN)
MEMBER(J)

B.