

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Dated this Wednesday the 4th day of September, 2002

Coram: Hon'ble Mr.B.N.Bahadur - Member (A)
Hon'ble Mr.S.L.Jain - Member (J)

O.A.931 OF 1998

Vasant Namdeo Tayade,
MRCL Cook,
Departmental Catering Unit,
Central Railway,
Bhusawal,
Post Kinhni,
Taluka Bhusawal,
Jalgaon.
(By Advocate Shri D.V.Gangal)

- Applicant

Versus

1. Union of India
through the General Manager,
Central Railway, Mumbai, CST.
2. The Divisional Railway Manager,
Central Railway, Bhusawal.
(By Advocate Shri V.D.Vadhavkar) - Respondents

O R D E R

By Hon'ble Mr.B.N.Bahadur, Member (A) -

The Applicant in this OA states that while there is no specific order against which it is made, his grievance and case are as follows. Applicant was working in Catering Unit in Jalgaon and Bhusawal and does not remember the exact date of his appointment, but started working along with one Shri Gulsher Khan Dilsher Khan, in 1955. Casual Labour Card issued to him shows the date of signing by authority concerned as 16.8.1955. The date of grant of in RCL status/temporary status is w.e.f. 1.4.1974. He further states that his services were terminated on 10.3.1987 but he was again employed as Waterman from 1988 to 1991, during the hot season and again terminated on 1.6.1991. His date of birth, he claims, is 5.6.1940 and his date of superannuation fell on 31.6.1998/31.6.2000 (OA is filed on 6.5.1998).

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2. The Applicant further states that "why and how the services of the Applicant are orally terminated is a mystery to be explained by the Respondents". The Applicant is seeking the benefit of wages/pension/retiral benefits. This, infact, is the case, in short made out by the Applicant who seeks the relief that the oral order of termination dated 10.3.1987 be termed as illegal and quashed and set aside. A declaration is also sought for reinstatement in service with full back wages from 10.3.1987 as also retirement benefits costs etc.

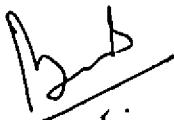
3. Respondents have filed a written statement of reply, initially dated 20.4.1999, and a subsequent para-wise reply dated 17.8.1999. The Respondents contest the claims of the Applicant and state that he was first engaged as Casual Labourer in 1973, drew Monthly Rated pay from 1.4.1974, and that from 1.4.1988, the Catering Unit came to be run by a Private Contractor, and, therefore, the Casual Labourer working for Catering Unit were thereafter offered only seasonal appointment, as Hot Season Waterman, and were given the understanding that they would be terminated after the requirements of hot season/s were offered. It was denied that the applicant was at any time working in the capacity of a Cook. Respondents take the point of limitation, delay and laches in their written statement and state that the claim is barred by some 25 years delay and relates to a cause of action when the Tribunal had no jurisdiction.



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4. We have heard the learned counsel Shri D.V.Gangal and learned counsel Shri V.D.Vadhavkar for the Respondents. Shri Gangal raised the point that vide RBE No.90/87 the provisions regulating pension were revised upon recommendations of IVth Pay Commission with regard to temporary Railway Servants. He drew our attention to a copy of the RBE order, making the point that these provisions were applicable to all Railway servants who retire or die in harness after 1.1.1986. Hence temporary status Railway servants were entitled. He dwelt upon the case of one Gulsher Khan Dilsher Khan who was provided with the benefits. (Copy of the order provided). It was argued by Shri Gangal that the law of limitation will not apply in this case.

5. Arguing the case for Respondents, learned counsel argued the point regarding limitation, delay and laches at some length. He made the point that there was no pleading regarding definition of "temporary status" and that the matter relates to a time before 1982, regarding which the C.A.T. had no jurisdiction. He argued that it is clear from the Applicant's appointment as Hot Season Waterman etc. that after the Canteen was privatised, persons like the Applicant were only offered stop gap kind of employment, as per the requirements of the hot season. No order of termination had been provided and an oral termination is referred to. Learned Counsel referred to the copy of the Railway Board's letter annexed at Annexure-R-I dated 14.10.1980 and



stated that it was necessary that for getting pensionary benefits, temporary status should be followed by absorption. The case law in the matter of Rabia Bikaner was relied upon.

6. We have carefully gone through the facts of the case and considered the arguments made by Learned Counsel on both sides. We have also seen the order in OA 62 of 1989 (Gulsher Khan Vs. Union of India & another) decided on 16.12.1993. We are led to conclude that this is a case without merit. The reasons are as follows - In the first instance, the Applicant himself states that he has no order of appointment nor does he remember when exactly he was appointed but only that he was working with Shri Gulsher Khan Dilsher Khan, some where around 1955. It is also clear that he has no copies of any orders of his termination but states that he was "orally terminated" w.e.f. 10.3.1987 where he gets such an exact date is not clear against the background of lack of other details. It is also clear from the type of employment that he has himself described that he was working (post-1988) only during hot seasons and hence on stop gap arrangements. Even assuming that he was in fact terminated on 10.3.1987 there is force in the contention of the Respondents learned counsel that the matter is hit badly by the law of limitation and by the infirmity of delay and laches. Here is a person who comes up to the Tribunal in 1998 for a cause of action that he himself dates to 1987 if not earlier. He had accepted the stop gap arrangement assignments without demur, and had he

any genuine grievance of losing of job even in 1987, he cannot be allowed to come up to the Tribunal in 1998 claiming orders for re-appointment, back wages and pensionary benefits. Allowing condonation of this type of delay would make a mockery of the very concept of limitation.

7. On the above ground we are convinced that no case has been made out by the Applicant, and that the Application is hit by the law of limitation and suffers badly from delay and laches. The OA is therefore dismissed with no order as to costs.

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

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B.N.Bahadur
(B.N.Bahadur)
Member (A)