

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH MUMBAI

ORIGINAL APPLICATION NO:338/98

DATE OF DECISION: 29.5.2007

Shri Ardaviraf Hormusji Medhora Applicant.

Shri R.Ramamurthy Advocate for
Applicant.

Versus

Union of India and others. Respondents.

Shri A.L. Kasturey Advocate for
Respondents

CORAM

Hon'ble Smt. Shanta Shastry, Member(A)

(1) To be referred to the Reporter or not? /x

(2) Whether it needs to be circulated to
other Benches of the Tribunal?

(3) Library. ✓

Shanta
(Shanta Shastry)
Member(A)

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CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO:338/98

Tues - Day . the 29th day of MAY 2001

CORAM: Hon'ble Smt. Shanta Shastry, Member(A)

Ardaviraf Hormusji Medhora
Residing at
Bunder Road,
Billimore District
Valsad.

....Applicant.

By Advocate Shri R. Ramamurthy

V/s

1. Union of India through
the General Manager,
Western Railway,
Churchgate, Mumbai.
2. Divisional Rail Manager
Western Railway,
Mumbai Central, Mumbai.
3. Senior Divisional Personnel
Officer, Western Railway,
Mumbai Central, Mumbai.

...Respondents.

By Advocate Shri A.L. Kasturey.

ORDER

[Per Smt. Shanta Shastry, Member (J)]

The applicant has sought the setting aside of the impugned order dated 16.5.1997 of General Manager (E) Western Railway and to reengage him as casual labour and to absorb him on a regular basis in group 'D' post.

2. It is the case of the applicant that he worked as substitute Cleaner under Loco Foreman (Electrical) at Valsad for different periods between 24.4.1972 to 29.7.1974. He worked during the strike period in May 1974. He was again engaged as casual labour from 2.12.1974 to 20.4.1975 at Mumbai Central. He

was further reengaged at Wdhana and Billimora. Thereafter his services were terminated vide letter dated 14.4.1976 from office of Divisional Railway Manager, Mumbai Division. The applicant submits that he has passed 8th standard. On every occassion he was discharged due to non availability of work. He made representations on 9.7.1978, 7.3.1994 and 20.5.1995. The Western Railway Employees' Union also took up his case for reengagement and regularisation but to no avail. Many other casual labourers during the same period as the applicant were absorbed permanently. Juniors to him have been reengaged. He is aggrieved that his case has not been considered properly inspite of letters dated 2.3.1987 and 4.3.1987 issued by the Railways on the subject of regularisation of casual labour in persuance of the direction given in the case of Inder Pal Yadav. A letter was issued on 3.9.1996 not to engage fresh casual labour but to regularise exisiting casual labour. A further letter dated 19.9.1996 was issued by the Railways to give effect to the directions contained in the letter of 3.9.1996. Earlier the Union had also taken up the matter in the PNM meeting and the Respondent No.2 had issued a letter to officers working under him to verify the particulars of the casual labourers whose names were given in the annexures to the letter and whose names were not included in the Live Register. The name of the applicant was in the aforesaid list. The applicant contends that the applicant's details had been verified and found to be correct but his name was not included in the Live Register deliberately.

3. The applicant further contends that no publicity was given to the circulars of 2.3.1987 and 4.3.1987 so he could not apply earlier.

4. The respondents oppose the relief. They have taken the preliminary objection that the application is time barred and suffers from delay and ~~laches~~. The cause of action arose in 1976 when the applicant's services were terminated. The first representation received from the applicant was in 1994, no representation was received in 1978 as claimed by the applicant.

5. The applicant had an opportunity to get his name included in the Live Register in 1987 when the scheme was introduced for regularisation of Casual labour engaged prior to 1.1.1981 but he failed to approach the authorities concerned in time. His case cannot now be considered after a lapse of 20 years and therefore the OA deserves to be dismissed.

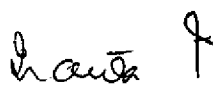
6. The applicant has relied on the letter dated 6.2.1996 from the Respondents No.2 whereby officers working under him had been asked to verify particulars of casual labour. Applicant's name was in the list annexed to the letter, without verifying the impugned letter of 16.5.1997 was issued. In the aforesaid ~~letter~~ two queries were raised. Without awaiting the advice on the queries the applicant's request was rejected. It is not fair.

7. The learned counsel for the Respondents had been directed to ascertain the position in regard to the queries raised. The learned counsel now submits that the applicant had not approached the Railway Administration before 31.3.1987 and his name was not included in the Live Register as he had not completed six months continuous service.

8. Having given a careful consideration to the contentions of the rival parties, I am of the view that the application is indeed barred by limitation and suffers from delay and laches. The applicant could not explain satisfactorily as to why he kept silent for twenty years. I cannot accept that the applicant was not aware of the circulars of the Railway Board relating to regularisation. When his services were terminated in 1976 he could have represented. Though he claims to have represented the Respondents have denied receiving any representation before 1994.

9. Further only those whose names are entered in the Live Register are entitled to regularisation. Applicant's name not being in the Live Register I am unable to grant any relief in this matter.

10. In the facts and circumstances of the case the OA is dismissed both on merits as well as on the ground of limitation. No order as to costs.


(Shanta Shastry)
Member(A)