

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

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Date of Order :04.05.2001.

O.A.NO. 440/1995

Prem Prakash Swami S/o Shri Rood Dass, aged 36 years, R/o Nohra, Post Nangal, via Udaipurwati, District Jhunjhunu, Rajasthan.

.....Applicant.

VERSUS

1. Union of India through the Secretary to the Government, Ministry of Communication, D/o Telecom, Sanchar Bhawan, New Delhi.
2. The Sub Divisional Officer (Telecommunication), Sikar, Rajasthan.

.....Respondents.

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Mr. P.V.Calla, Counsel for the applicant.

Mr. Hemant Gupta, Advocate, brief holder for
Mr.M.Rafiq. Counsel for the respondents.

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CORAM :

HON'BLE MR.A.K.MISRA, JUDICIAL MEMBER

HON'BLE MR.S.K.AGRAWAL,ADMINISTRATIVE MEMBER

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ORDER
(Per Mr.A.K.Misra,J.M.)

The applicant had filed this O.A. with the prayer that the impugned communication dated 14.8.1995 (Annex.A/1) be declared illegal and respondents be directed to re-engage the applicant in service from the date when his juniors were so engaged and further be directed to pay wages for the said period with consequential benefits.

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2. Notice of the application was given to the respondents who had filed their reply to which no rejoinder was filed by the applicant.

3. We have heard the learned counsel for the parties and have gone through the case file.

4. From the record, it appears that the applicant was engaged by the respondents as a Daily Wager Casual Worker during the year 1983-84. He was dis-engaged by the respondents. Consequently, the applicant filed an O.A. in this Tribunal alleging that his representation in this regard is pending with the department and the department is sitting ~~over~~ over the matter. The Tribunal accepting the contention of the applicant in the previous O.A. which was registered at No. 145/1995, on 15.5.1995 ~~and~~ directed the respondents to take a decision on the representation dated 30.1.1995 submitted by the applicant to the SDOT, Sikar, Rajasthan, within a period of two months. A copy of the O.A. along with annexures was sent to the respondent No. 2 together with the copy of the order of the Tribunal. Consequent thereto, the respondents after consideration, passed an order Annex.A/1 dated 14.8.1995 against which, the present O.A. has been preferred. By this order, the respondents concluded that the applicant had worked with the department only upto May 1984 and thereafter did not approach the respondents for re-engagement etc. Therefore, after a lapse of more than 10 years benefit of the provisions of Industrial Disputes Act, cannot be extended to the applicant and he cannot be re-engaged in 1995 now. The applicant felt aggrieved of this communication and filed this O.A. challenging the order on the ground that the respondents were expected to maintain a register of the workmen in terms of the Industrial Disputes Act. The applicant was never called and engaged though many similarly dis-engaged labours were subsequently engaged by the department. The action of the respondents refusing the engagement of the applicant is bad in law.

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Consequently, the applicant deserves to be provided with the relief claimed in the O.A.

5. On due consideration of the facts and arguments advanced by the learned counsel for the parties, we are of the opinion that after a lapse of 10 years of applicant's dis-engagement, the present O.A. was not at all maintainable and after almost 17 years of original dis-engagement the applicant cannot be provided with the relief of re-engagement, as has been prayed by the applicant. If the contentions of the applicant are taken to be correct the applicant was dis-engaged as far back May 1984. He made a representation for his re-engagement for the first time in the year 1995 i.e. more than 10 years after his dis-engagement. If the applicant was wrongfully dis-engaged inspite of his having rendered more than requisite number of working days then he should have sought the remedy at the appropriate time. He could have come before the Court of law in the year 1985 or in the year 1986. But, he preferred to keep quiet for almost 11 years and then on one fine morning, made a representation to the department and secured a direction from the Court for disposal of the representation. Such belated representation cannot revive the limitation; neither the directions of the Tribunal can bring the matter within limitation. As per law, the aggrieved party should make a proper representation within a reasonable period which in the instant case can be taken to be one year. But the applicant had not done this. The contention of the applicant that respondents were directed to re-engage similarly situated persons, cannot be of any advantage to the applicant. The judgement of which the applicant wants to take advantage by citing an instance, is related to a matter which was raised by the applicants in that case in the year 1989 which was decided in the year 1994. In pursuance of that order few persons might have been re-engaged by the department and seeing that situation the applicant seems to have made the

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representation to the department in January 1995. Had the applicant been aggrieved of his dis-engagement he could have come to the Court at his earliest. In such a case, the applicant cannot be permitted to take advantage of an order of the Tribunal for winning-over the ~~bar~~ of limitation which is very much evident in the present case. Limitation once starts running, cannot be stopped and, therefore, any number of representations or decision of the Court, cannot be of any help to the applicant. In this connection, the principle laid down by Hon'ble the Supreme Court reported in 1995 Suppl. (3) SCC 231 - Secretary to Government of India and Others Vs. Shivram Mahadu Gaikwad, can be usefully quoted :-

"Administrative Tribunals Act, 1985 - S.21 - Limitation - Respondent discharged from service on 7.10.1986 from P&T Department, filing petition before CAT on 14.9.1990 claiming reinstatement - CAT directing reinstatement with full back wages without considering the question of bar of limitation - Held, the application before CAT was clearly barred by limitation unless an application for condoning the delay was made - Even if it was the contention of the respondent that he was suffering from schizophrenia, that could have been projected as a ground for condonation of delay - The Tribunal totally overlooked the question of limitation which stared in the face - There was no valid explanation on the record for coming to the conclusion that a case for condonation of delay was made out - It was also difficult to understand how the Tribunal could have awarded full back wages even for the period of delay for which the employee was solely responsible - In the result, the impugned order of Tribunal set aside."

6. If the principle laid down in this case is applied to the present case the case of the applicant is hopelessly time barred and any direction to decide the representation of the applicant, in our opinion, cannot revive the limitation for the benefit of the applicant. It should also be noted that the petition was filed in the year 1995 when the applicant was 36 years of age and now after 6 years, the applicant is 42 years of age. Directing the department to re-engage the applicant would mean direction to an ^{employ} over-aged ^{Person} ~~employee~~ which would be against the provisions of law. For all ^{the} delay in seeking the remedy the

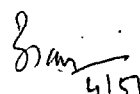
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applicant has only himself to thank and the provisions of limitation cannot be given a go-bye to help the applicant on equitable grounds. In our opinion, the O.A. is hopelessly time barred and deserves to be dismissed. Even on merits, the applicant has no case for being re-engaged after such a long lapse of 17 years of his original disengagement. The applicant had rendered only 150 days of work at the time of his dis-engagement. This small period is also ^{not} of great importance ^{for} directing re-engagement of the applicant keeping in view the applicant's own negligence and laches in the matter. The O.A. deserves to be dismissed.

7. The O.A. is, therefore, dismissed. The parties are left to bear their own cost.


(S.K. Agrawal)
Adm. Member


(A.K. Misra)
Judl. Member

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