

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,  
JAIPUR BENCH, JAIPUR .

3  
6

Date of Decision: 18.5.95

OA 5/95

Suresh Kumar Rathore s/o Shri Kamta Prasad Rathore, aged about 33 years, r/o near Shastri Park, Shastri Colony, Gangapur City, Distt. Sawaimadhopur, last employed on the post of Casual Water Labour (Waterman) under Station Superintendent, Gangapur City.

... APPLICANT .

Versus

1. The Union of India through the General Manager, Western Railway, Churchgate, Bombay.
2. Divisional Railway Manager, Western Railway, Kota Division, Kota.
3. Senior Divisional Commercial Superintendent, Western Railway, Kota Division, Kota.

... RESPONDENTS .

CORAM:

HON'BLE MR.O.P. SHARMA, MEMBER (A).  
HON'BLE MR. RATTAN PRAKASH, MEMBER (J).

For the Applicant ... SHRI S. KUMAR .

For the Respondents ... ---

PER HON'BLE MR. RATTAN PRAKASH, MEMBER (J).

Applicant Suresh Kumar Rathore has approached this Tribunal u/s 19 of the Administrative Tribunals Act, 1985 to claim the relief that the respondents be directed to re-engage the applicant on the post of casual labour forthwith and allow him consequential benefits at par with his juniors and as admissible under the rules.

2. The relevant facts of this case, as narrated by the applicant, are that the applicant was initially engaged at Gangapur City Railway Station on the post of casual labour (Waterman) on 1.7.85. He was issued a Service Card (Annexure A-5) by the AOS, Western Railway,

Kota. He worked upto 21.7.85 and thereafter was discharged due to non-availability of work. It is the case of the applicant that at the time of his discharge he was told that as and when any vacancy would arise, he will be re-engaged. That last year when he came to know that there are many vacancies of casual labour (Hot Weather Waterman) at Gangapur City, he submitted a representation on 26.3.90 to the authorities, whereupon the ACS (E), Kota, directed the SS to do the needful while enclosing the applicant's representation <sup>vide</sup> Annexure A-1. It is the grievance of the applicant that even though he approached the AOS at Kota and ACS Kota as also SS Kota neither he was taken on duty nor he has been re-engaged. Having come to know that a number of persons have been engaged after discharge of the applicant, he sent a detailed representation on 16.8.90 (Annexure A-3) to the General Manager, Western Railway, Churchgate, Bombay. Having received no response to it also ~~from the respondents~~ he has been constrained to file this application to claim the aforesaid relief.

3. At the stage of admission the learned counsel for the applicant has been heard at great length. The applicant has filed this OA on 23.12.94. He ~~said to~~ <sup>alleges</sup> and alleges to have worked as a casual labour (Waterman) only between the period from 1.7.85 to 21.7.85. A perusal of the details given in the service card (Annexure A-6) exhibits that he worked for a total of only 2 days between the period 1.7.85 to 21.7.85. He alleges that after his dis-engagement one Shri Babu Lal Meena was engaged initially on 26.4.86 under the SS Gangapur City and he has been absorbed in Kota Workshop in Class-IVth vide Ticket No. 2377. Similarly, one Shri Akhtar Ali is said to have

(7)

been engaged initially on 21.6.87 as NAC under Loco who Foreman, Kota, and has also been permanently absorbed. It has been contended by the learned counsel for the applicant that he has filed this application within limitation after he came to know from a Newspaper report that a number of junior persons have been engaged between March, 1993 to April, 1994 and as such the application is within time. The applicant has failed to furnish any details whatsoever of persons who, he says, were junior to him and have been engaged between the aforesaid period of March, 1993 to April, 1994. Although he came to know about the engagement of Shri Babu Lal Meena in the year 1986 and of Shri Akhtar Ali in the year 1987, he did not take any legal steps to seek remedy from any forum. On his own version he alleges that he submitted a representation as early as on 26.3.90 and another on 26.8.90. The applicant has not been consistent about making his representations. In the body of the pleadings he has referred two representations, one of 26.3.90 and another of 26.8.90, but in para-6 of the OA he refers to a representation said to have been made on 22.6.91 and from this representation he claims that the application has been filed within limitation.

4. We have given anxious thought to the arguments of the learned counsel for the applicant and have also gone through the material which has been placed by the applicant in support of his allegations. Even if for the sake of arguments it is accepted that the applicant has made a representation on 26.8.90 (Annexure A-3), it was his bounden duty to approach the Tribunal within

one year next after the expiry of the period of six months from the date of making the representation. He having failed to present the application within the time prescribed under Section 21 (1)(b) of the Administrative Tribunals Act, 1985, his OA is barred by limitation.


5. There is no force in the other contention of the learned counsel for the applicant that since the respondents have engaged many junior persons to the applicant between the period March, 1993 to April, 1994, hence this application is within limitation. The reasons are many fold. Firstly, except the name of the persons no detail whatsoever has been given by the applicant in respect of the persons who are said to be his juniors and appointed in the aforesaid period. In a way the averment of the engagement of alleged aforesaid juniors is also vague. Secondly, merely on the basis of report published in the Newspaper, no cognizance can be taken so far as the initiation of legal proceedings are concerned. More particularly when it lacks in supplying the desired and specific particulars about fresh engagement. It is pertinent to mention here that though the applicant came to know about the appointment of two persons viz. S/Shri Babu Lal Meena and Akhtar Ali in the year 1986 and 1987, yet he chose to sit idle and did not pursue any remedy in time, after their appointments. The applicant has further failed to explain the delay in approaching this Tribunal so late as in the year 1994.


It is with a view to check the tendency of such individuals approaching courts belatedly that Hon'ble the Supreme Court in the case of Bhoop Singh v. Union of India & Ors., reported in JT 1992 (3) SC 323, has held that:

"Inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim. If a person entitled to a relief chooses to remain silent for long, he thereby gives rise to a reasonable belief in the mind of others that he is not interested in claiming that relief. Others are then justified in acting on that belief. This is more so in service matters where vacancies are required to be filled promptly."

This principle of law applies with full force in this case.

6. For all the aforesaid reasons, we are of the opinion that the application filed by the applicant is highly belated and is barred by limitation u/s 21 of the Administrative Tribunals Act, 1985. The application is, therefore, rejected at the admission stage itself.

  
( RATTAN PRAKASH )  
MEMBER (J)

  
( O.P. SHARMA )  
MEMBER (A)