

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.20/99

Date of order: 7/9/2000

Kendra Pal Singh, S/o S;hri Nirbhaya Singh, Ex.Hot Weather Waterman, R/o Vill.H:irnoda, Distt.Jaipur.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Railway, Church Gate, Mumbai.
2. Divisional Rly.Manager, W.Rly, Jaipur Divn, Jaipur.
3. Divisional Commercial Supdt, Western Rly, Jaipur.

...Respondents.

Mr.P.V.Calla - Counsel for applicant.

Mr.U.D.Sharma - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 19085, the applicant makes a prayer to direct the respondents to consider the case of the applicant for re-engaging him in service and further directions to consider the case of the applicant for providing regular appointment in Group-D post from the date the applicant becomes entitled with all consequential benefits.

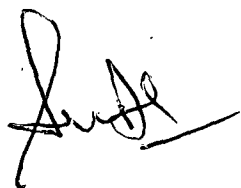
2. Facts of the case as stated by the applicant are that he was initially engaged as Hot weather Waterman in the month of June 1981. He was allowed to work upto 14.7.81 thereafter his services were disengaged with the assurance that whenever the work will be available he will be engaged. Thereafter ban was imposed on recruitment and after lifting ban the applicant was again called to perform the duties of Hot wheather Waterman in the month of April 88 and he was engaged at Railway Station Hirnoda and allowed to work continuously upto May 1989, thereafter he was not engaged. The applicant met respondent No.2 again and again but he was not engaged. He file representation but with no result. It is

stated that a circular was issued by the Railway Board to engage casual Hot weather Waterman who were having initial engagement prior to 14.7.81 or those casual labour engaged after 14.7.81 to whom specific approval of G.M has been obtained. But no action in favour of the applicant was taken in view of the circular issued by the Railway Board. The applicant also sent a notice of demand of justice but with no result. Therefore, the applicant filed the O.A for the relief as mentioned above.

3. Reply was filed. In the reply it is stated that the applicant has himself has abandoned his engagement as Hot Weather Waterman after July 1989 and thereafter submitted a representation to respondent No.2 which was received in the office on 4.8.98, therefore, this application is not maintainable on the ground of limitation, delay and acquiescence on the part of the applicant. It is also stated in the reply that the applicant only worked for 9 days in July 1989 and thereafter he himself had abandoned and he was never called thereafter to work as Hot Weather Waterman. It is also stated that O.A No.77/95 filed by Shri Nanak Singh was decided on 12.3.98 but the said case is distinguishable on facts as Shri Nanak Singh had already been granted temporary status as Hot Weather Waterman and his services had been dispensed with and junior person had been engaged in his place whereas in the instant case no temporary status was ever conferred upon the applicant and the applicant himself has abandoned his work after July 89 and there is no allegation that any junior person to the applicant was engaged, therefore, no benefit can be given to the applicant on the basis of the decision given in O.A No.77/95, Nanak Singh Vs. UOI & Ors. Therefore, the applicant is not entitled to any relief sought for.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The learned counsel for the applicant has vehemently submitted that the case of the applicant is squarely covered by the order passed in O.A No.77/95, Nanak Singh Vs. UOI & Ors, decided on 12.3.98 to which the learned counsel for the respondents have objected and argued that the



decision given in O.A No.77/95 is distinguishable as no temporary status has ever been conferred upon the applicant and there is no allegation that any person junior to the applicant has been engaged and he has not been engaged. No doubt in the instant case, as per the applicant himself, he was initially engaged as Hot Weather Waterman in the month of June 1981 and he worked upto 14.7.81 but he failed to give the exact date on which he was initially engaged ~~but~~ the respondents have not admitted the fact in the reply. The respondents have only admitted his engagement in July 1989 to which it is stated that the applicant himself had abandoned his engagement after July 89.

6. In the case of Nanak Singh (supra) it is very much clear that Shri Nanak Singh was conferred temporary status but the applicant in the instant case was not conferred the temporary status. Moreover, there is no allegation by the applicant that any person junior to him was engaged by the respondents and he was not engaged whereas there was allegation in the case of Nanak Singh that junior to him was engaged. In view of the distinguishable facts and circumstances of the case I am of the considered view that the case of Nanak Singh is distinguishable and the case of the applicant is not squarely covered by the order passed in O.A No.77/95, Nanak Singh V. UOI & Ors, decided on 12.3.98.

7. The learned counsel for the respondents has also argued that this O.A is hopelessly barred by limitation. According to the applicant himself, he was initially engaged in June 1981 and worked till July 81. It is also stated by the applicant that thereafter he worked as Hot Weather Waterman in the month of April 88 to May 89. It is also the contention of the applicant that he filed representation to respondent No.2, copy of which is enclosed as Annx.A1 but no date is mentioned in the representation and the notice for demand of justice was sent by his counsel on 24.8.98, meaning thereby after July 89, the applicant has come up for redressal of his grievance before this Tribunal in the year 1999, therefore, according to the applicant, he has not approached the Tribunal within time as specified in Sec.21 of the Administrative

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Tribunals Act, 1985.

8. The main purpose of limitation provided under Sec.21 of the Act is that the Govt servant who have legitimate claim should immediately agitate for the same against the adverse order passed against him within a period of one year on getting the final order or after the lapse of 6 months from the date of representation to which no reply has been received.

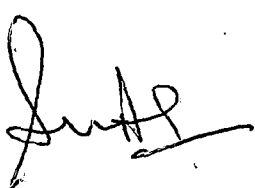
9. In Yashbir Singh & Ors Vs. UOI & Ors, AIR 1988 SC 662, it was held that any one who may feel agrieved with an administrative order or decision affecting his right should act with due diligence and promptitude and not sleep over the matter. Raking of old matters after a long time is likely to result in administrative complication and difficulties and it would create insecurity and instability in the service which would affect the efficiency.

10. In Bhoop Singh Vs. UOI, AIR 1992 SC 1414, it was held that it is expected of a Govt servant who has legitimate claim to approach the Court for the relief he seeks within a reasonable period. This is necessary to avoid dislocating the administrative set up. The impact on the administrative set up and on other employees is strong reason for not considering the stale claim.

11. In UOI Vs. Harnam Singh, 1993 SCC(L&S) 375, it was held that the law of limitation may operate harshly but it has to be applied with all its vigour and courts/tribunal cannot come to the aid of those who sleep over the right and allow the period of limitation to expire.

12. In Ratan Chandra Vs. UOI, JT 1993(3) SC 418, it was held that a person who sleeps over his grievances, loses his right as well as remedy.

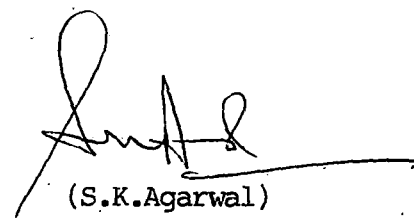
13. In U.T Daman & Deau & Ors Vs. R.K.Valand, it was held that the Tribunal fell in patent error in brushing aside the question of limitation by observing that the respondent has been making representation from time to time and as such the limitation would not come in his way.



14. In Ramesh Chandra Sharma Vs. Uchan Singh Kamal & Ors, 2000(1) SC SLJ 178, in which the applicant challenged the order of rejection of promotion dated 2.7.91 on 2.6.94 by way of OA. The Tribunal allowed the relief but Hon'ble Supreme Court held that the O.A was time barred before the Tribunal and the Tribunal was not right in overlooking the statutory provisions as contained under section 21(1)(b) of the Administrative Tribunals Act.

15. In view of the settled legal position as above and facts and circumstances of the case, I am of the considered view that the O.A filed by the applicant was hopelessly barred by limitation and therefore this O.A is liable to be dismissed on this count alone.

16. On the basis of above all, the O.A filed by the applicant is dismissed with no order as to costs.



(S.K. Agarwal)

Member (J).