

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.495/99

Date of order: 16/7/2001

Man Singh, S/o Sh.Mokham Singh, R/o Village Teraiyon
ka Nagla, Teh.Roop Bas, Distt.Bharatpur.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Rly,
Churchgate, Mumbai.
2. Divisional Rly.Manager, W.Rly, Kota Divn, Kota.
3. Sr.Divl.Commercial Manager, W.Rly, Kota Divn, Kota.

...Respondents.

Mr.P.V.Calla : Counsel for applicant

Mr.M.Rafiq) : for respondents.

Hemant Gupta)

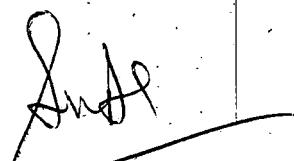
CORAM:

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

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

In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to direct the respondents to re-engage him as casual labourer on any Group-D post from the date his juniors were engaged with all consequential benefits.

2. The case of the applicant as stated by him is that he was engaged as Waterman on 6.12.82 and worked upto 30.6.91 (489 days) and was conferred temporary status w.e.f 28.5.91 and was found medically fit for railway service but he was not allowed to work w.e.f. 1.7.91. It is stated that the respondents appointed new faces as per details given in para 4.5 of this O.A. It is further stated that the work was available with the respondents but the applicant was not engaged, hence the action of the respondents not appointing



the applicant is discriminatory and arbitrary as the applicant having reasonable expectation from the Railways to regularise him whenever vacancy occur, as per the policy. Therefore, the applicant filed the O.A for the relief as above.

3. Reply was filed. It is stated that large number of surplus staff is waiting for regularisation, therefore, the applicant has no case for regularisation. It is also stated that casual labourer engaged de-horse the rules have no right for regularisation. It is further stated that the present application is barred by limitation. It is stated that the present application is made only on the basis of order passed in the case of Nanak Singh Vs. UOI & Ors, O.A No.77/95 decided on 12.3.98 which was also challenged before Hon'ble Supreme Court in SLP and the SLP was dismissed summarily and as such the dismissal of SLP by Hon'ble Supreme Court summarily does not lay down any law, hence the applicant has no case.

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

5. On a perusal of the case file, it appears that this Tribunal decided O.A No.77/95, Nanak Singh Vs. UOI & Ors, on 12.3.98 and the order passed by this Tribunal in the aforesaid O.A was challenged by the department by filing SLP which was dismissed summarily.

6. The counsel for the applicant argued that the instant case is squarely covered by the decision given by this Tribunal in O.A No.77/95, Nanak Singh Vs. UOI & Ors, which was affirmed by the Hon'ble Supreme Court. The counsel for the respondents has made serious objection to this

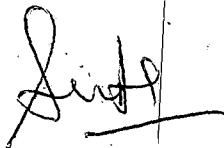
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argument on the ground that the case in hand is hopelessly barred by limitation, as provided under Sec.21 of the ATs Act and summarily dismissal of the SLP does not lay down any law.

7. I have given anxious consideration to the rival contention of both the parties and also perused the record.

8. Undisputedly, the applicant worked as casual labourer from 6.12.82 to 30.6.91 for 489 days in total and he was conferred with temporary status w.e.f. 28.5.91 but he was not allowed to work after 30.6.91. In this way, the cause of action has arisen to the applicant on 1.7.91 but this O.A was filed in the year, 1999, after approximately 8 years. No representation, whatsoever appears to have been filed by the applicant to the respondents for redressal of his grievances, no reasonable and probable explanation has been given by the applicant regarding the delay and no application for condonation of delay has been filed.

9. The main purpose of limitation as provided under Sec.21 of the ATs Act, is that the government servant who has legitimate claim should immediately agitate the same against the adverse order passed against him. Sec.21 of the ATs Act, provides that applicant should approach the Tribunal within a year after passing the final order and if he has made representation for redressal of his grievance which has not been replied then six months from the date of such representation he must approach the Tribunal. But in the instant case, the applicant slept over for so many years and knocked the doors of this Tribunal in the year 1999, after about 8 years, therefore, this O.A, in my considered view, hopelessly barred by limitation.



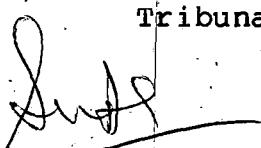
10. In Yashber Singh & Ors Vs. UOI & Ors, AIR 1988 SC 662, it has been held by Hon'ble Supreme Court that it is well settled that any one who may feel aggrieved with an administrative order of decision affecting his right should act with due diligence and promptitude and not sleep over the matter. Racking of old matter after a long time is likely to result in administrative complication and difficulties and it would create in security and instability in the service which would affect the efficiency.

11. In Union of India Vs. Harnam Singh, 1993 SCC(L&S) 375, their lordship of Hon'ble Supreme Court 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 Samt Vs. UOI, JT 1993(3) SC 418, The Appex Court 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, 1996(1) SCC (L&S) 205, Hon'ble Supreme Court held that the Tribunal fell in patent error in brushing aside the question of limitation by observing that the respondents has been making representations from time to time and as such the limitation would not come in his way.

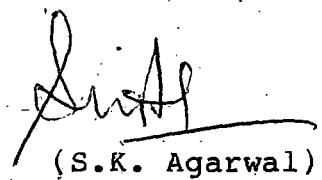
14. In Ramesh Chandra Sharma Vs. Udhyan Singh Kmal & Ors, 2000(1) SLJ SC 178, the applicant challenged the order of rejection of promotion dated 2.7.91 on 2.6.94 by way of O.A. The Tribunal allowed the relief but the Supreme Court held that the O.A was time barred before the Tribunal and the Tribunal was not right to over looking the statutory



provisions as contained under Sec.21(1)(B) of the ATs Act.

15. On the basis of the above legal position and facts and circumstances of this case, the case of Nanak Singh is distinguishable as Shri Nanak Singh after not allowing him on duty continuously and regularly agitated the issue before the competent authority and thereafter filed the O.A in the year 1995 and the Tribunal has allowed the O.A of Nanak Singh as no objection regarding the point of limitation has ever raised by the respondents before the Tribunal. But in the instant case, the applicant never agitated the matter before any competent authority but filed the O.A after a period of about 8 years and the respondents has raised serious objection regarding limitation. Therefore, according to the decision given in the case of Nanak Singh (supra), the applicant is not entitled to any benefit as the claim of the applicant is hopelessly barred by limitation.

16. I, therefore, dismiss this O.A as hopelessly barred by limitation with no order as to costs.



(S.K. Agarwal)

Member (J).