

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.455/2000

Date of order: 12/9/2009

Sri Lal, S/o Sh.Latur ji, R/o Near Rly. Station
Kapren, Teh.Kaishu Raipatan, Dist.Bundi.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Rly,
Churchgate, Mumbai.

2. The Divisional Rly.Manager, Western Rly, Kota.

...Respondents.

Mr.Shiv Kumar : Counsel for applicant

Mr.U.D. Sharma : for respondents.

CORAM:

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

Hon'ble Mr.S.A.T.Rizvi, Administrative Member.

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

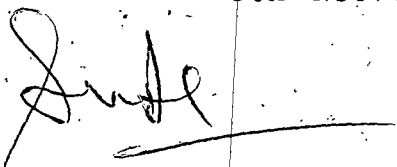
In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to direct the respondents to engage the applicant on the post of casual labourer/Group-D with all consequential benefits considering the case of the applicant in the light of judgment rendered by this Tribunal in O.A No.77/95 Nank Singh Vs. UOI & Ors decided on 12.3.98 and O.A.No.616/94 Hari Mohan V. UOI & Ors, decided on 18.8.2000.

2. Facts of the case as stated by the applicant are that the applicant was initially appointed as Hot Weather Waterman on 1.4.85 in Kota Division of Western Railway. Thereafter, his services were retrenched after 22.7.85 and he was again engaged in the year 1989 and continued upto June 1990. Again after June 1990 he was retrenched without giving him any notice/compensation. It is stated that the

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applicant has come to know that the respondents have engaged two juniors persons Sh.Mool Chand and Sh.Rajendra Singh and further engaged about 30 persons as fresh casual labourers in Kota Division after termination of services of the applicant which is arbitrary. It is stated that without giving any opportunity or notice, as required under Sec.25 (H) of the Industrial Disputes Act, 1947, engaging junior persons without giving preference to the applicant is illegal and not sustainable in law. It is stated that this Tribunal decided the same controversy in O.A No.77/95 Nank Singh Vs. UOI on 12.3.98 and O.A No.614/94, Hari Mohan Vs. UOI on 18.8.2000 and the case of the applicant is squarely covered by the decisions of the aforesaid O.As and the applicant is entitled to the relief sought for. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. In the reply, it is stated that the applicant himself has abandoned his job first in the year 1985 and again in the year 1990. Thereafter, he did not turn up for seeking re-engagement and straight away approached this Tribunal in the year 2000, therefore, this O.A is hopelessly barred by limitation. It is denied that the applicant was ever retrenched by the department, therefore, question of giving him any notice/compensation does not arise. It is stated that Mool Chand and Rajendra Singh was initially appointed as substitute and not as Hot Weather Waterman. The applicant was engaged as Hot Weather Waterman and as such seniority units of both the said categories are different and applicant cannot compare his case with those two persons. It is also stated that the case of the applicant cannot be squarely covered by the orders passed in O.A No.77/95, Nank Singh and O.A No.614/94 Hari Mohan and



the applicant has no case for interference by this Tribunal.

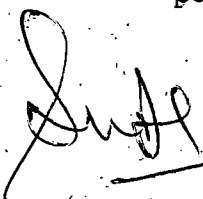
4. Heard the learned counsel for the parties and also perused the whole record.

5. The learned counsel for the applicant has vehemently submitted that the case of the applicant squarely covered by the order passed in O.A No.77/95, Nank Singh and O.A No.614/94 Hari Mohan to which the learned counsel for the respondents objected and argued that the decisions given in the aforesaid cases are distinguishable.

6. We have given anxious consideration to the rival contentions of both the parties and also perused the aforesaid orders passed by this Tribunal. We have also perused the written arguments filed by the learned counsel for the respondents.

7. In the case of Nank Singh Vs. UOI & Ors, decided on 12.3.98, it is very much clear that Sh.Nank Singh was conferred temporary status but the applicant in the instant case was not conferred temporary status. Moreover, in the instant case it is abundantly clear that the applicant himself abandoned the job first in the year 1985 and again in the year 1990. For the first time he approached this Tribunal by filing this O.A in the year 2000, therefore, in our considered opinion, the case of Nank Singh is distinguishable and the case of the applicant is not squarely covered by the order passed in the case of Nank Singh Vs. UOI & Ors decided on 12.3.98.

8. Likewise, the case of Hari Mohan Vs. UOI, O.A No. 614/94 decided 18.8.2000 is also distinguishable and the case of the applicant is not squarely covered by the order passed in the aforesaid O.A decided on 18.8.2000.

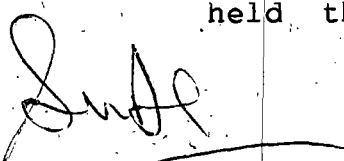


9. The counsel for the respondents argued and gave more emphasis that this O.A is hopelessly barred by limitation. According to the applicant himself, he was initially appointed on 1.4.85 and worked as Hot Weather Waterman upto 22.7.85 thereafter the applicant was again engaged in the year 1989 and continued upto June 1990. Thereafter, the applicant did not turn up at all, meaning thereby he has abandoned the job suo mottu in the year 1990 and had never approached the authorities for his re-engagement/appointment and filed this O.A some times in the second or third week of September 2000. Therefore, according to the applicant himself, he has not approached this Tribunal within the time as specified under Sec.21 of the Administrative Tribunals Act, 1985.

10. 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.

11. In Yashbir Singh & Ors Vs. UOI & Ors, AIR 1988 SC 662, it was held that any one who may feel aggrieved with an administrative order or decision affecting his right should act with the deligence 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.

12. 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 sale claim.

13. 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.

14. 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.

15. 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.

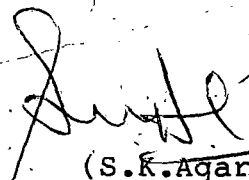
16. In view of the settled legal position as above and facts and circumstances of this case, we are of the considered view that this O.A filed by the applicant was hopelessly barred by limitation and the case of the applicant does not cover at all with the decisions given in O.A No.77/95, Nank Singh Vs. UOI decided on 12.3.98 and O.A No.614/94, Hari Mohan Vs., UOI, decided on 18.8.2000, as referred above. Therefore, the applicant has no case for interference by this Tribunal.

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



(S.A.T. Rizvi)

Member (A).



(S.K. Agarwal)

Member (J).