

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 17.11.2000

OA No.484/2000

Dineshwar S/o Pyare Lal aged 37 years Ex. APR Ticket No.1777, Loco Shed, Western Railway, Kota r/o 741/30 near Shiv Mandir, Gujer Dharti, Nagra, Ajmer

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Kota.

.. Respondents

Mr.N.K.Gautam, counsel for the applicant

....

CORAM:

Hon'ble Mr. Justice B.S.Raikote, Vice Chairman

Hon'ble Mr. N.P.Nawani, Administrative Member

Order

Per Hon'ble Mr. N.P.Nawani, Administrative Member

In this Original Application filed under Section 19 of the Administrative Tribunals Act, the applicant has sought the following reliefs:-

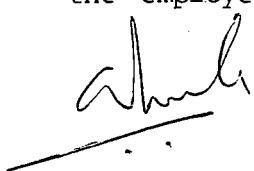
- "(1) declare the chargesheet dated 23.12.87 (Ann.A3) as defective and arbitrary and also NIP dated 12.5.88 (Ann.A1) as wrong, illegal, unoperative.
- (2) direct the respondents to take the applicant on duty treating him as on duty continuously w.e.f. 24.6.86.
- (3) direct the respondents to arrange the wages/salary of the applicant for the period alongwith promotional benefits accrued during the period.
- (4) cost may be awarded to the applicant.



(5) any other relief, the Hon'ble Tribunal considers just and reasonable under the facts and circumstances of the case."

2. We have heard the learned counsel for the applicant regarding admission and perused the material on record.

3. The applicant has challenged the impugned chargesheet dated 23.12.1987 (Ann.A3) being defective and arbitrary and the Notice Imposing Penalty (for short NIP) dated 12.5.1988 (Ann.A1) being wrong, illegal and operative. The OA has, however, been presented on 4.10.2000 i.e. after a delay of more than 12 years. The OA is thus hopelessly barred by limitation. It appears that there was an earlier NIP dated 8.4.1988 (Ann.A5) which was "treated as cancelled without prejudice to further DAR action" but this, in no case, extends the limitation. The applicant has also annexed copy of a letter dated 23.5.1997 supposed to have been written on behalf of Divisional Railway Manager (Estt.) Kota to Divisional Secretary, Western Railway Employees (for Short, WRE) Union, Kota stating, inter-alia, that the case of Dineshwar (the applicant in this OA) is 10 years old, the case file is not available in DAR department and arrange copies of Standard Form 5, Standard Form 9, findings, NIP and appeal made by the employee earlier. This letter was, replied to by the Divisional Secretary, WRE Union, Kota inferring that "this office file No. WREU/KTT/Mech./91-2 together with photostat copy of relevant documents and postal acknowledgement APR-Kota have already been personally handed over to Sr. DPO/Kota by the undersigned on 9.6.1997. This is followed by a letter dated 30.11.1998 (Ann.A12) from the DRM addressed to Divisional Secretary, WRE Union stating that although a reply has been sent earlier but it is once again informed that in the absence of original records, it will be wrong to take any decision at this stage because the NIP was issued to the employee on 17.2.1988 and the copy of appeal dated 26.6.97



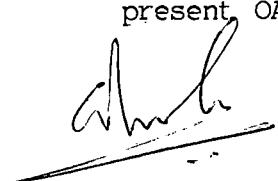
: 3 :

which was given to DPO/Kota but these 9 years 4 months the applicant submitted no reminder in this office which indicates that the appeal must have been decided earlier and that is why the official made no correspondence in this regard. Finally, Ann. A13 is the representation from the applicant dated 15.4.1999. We are constrained to observe that all this correspondence between the DRM Office and a Union office-bearer and then finally a representation from the applicant on 15.4.99 cannot and do not extend the period of limitation.

4. The applicant has not filed any application for condonation of delay.

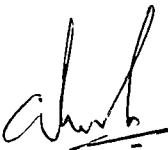
5. The law as has developed over the years requires us to enforce the provisions regarding limitation rigorously. In Harnam Singh v. Union of India and ors., 1993 (24) ATC (SC) 92, Hon'ble the Supreme Court held that law of limitation cannot come to the rescue of those who sleep over and allow limitation to expire. In a recent case, 2000 (1) ATJ 178 (SC), Ramesh Chandra Sharma v. Udhamp Singh Kamal and ors., Hon'ble the Supreme Court observed that the OA before the Tribunal against an order of termination was time barred and no application for condonation of delay was filed and held that the Tribunal was not right in deciding the OA on merits overlooking the statutory provisions.

6. The learned counsel for the applicant has sought support from the judgment rendered by the Principal Bench of this Tribunal in the case of Perupkar Singh Soni v. Union of India and ors. reported in 1988 (8) ATC 568 (CAT). However in that case there was an indication from the Government that it was prepared to open a time barred case and case was decided on merits. However, in the present OA there is no indication from the respondents that they



are keeping the case of the applicant under consideration. In fact, in their reply to the office-bearer of the WRE Union, they have stated that in the absence of original records not having been sent, and the applicant having remained silent for more than 9 years, it can be presumed that the appeal of the applicant must have been disposed of when it was filed many years back. In any case, in view of a catena of judgments of the Apex Court after 1988, an OA which is hopelessly barred by limitation cannot be taken up on merits in such a filmsy ground as advocated by the learned counsel for the applicant.

7. In view of above discussions, the Original Application does not merit admission and it, therefore, dismissed at the stage of admission with no order as to costs.


(N.P.NAWANI)

Adm. Member


(B.S.RAIKOTE)

Vice Chairman