

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH, JAIPUR.

Date of decision: 13th May, 2004

OA No.317/2002

with

MA No.291/2002

Subhash Chand Jha s/o Shri Hari Shanker Jha, presently residing at Ashok Vihar, Near Narishala, Ajmer City, last employed in Loco Shed, Phulera under Jaipur Division of Western Railway.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. The Divisional Rail Manager, Western Railways, Jaipur Division, Jaipur.
3. The Loco Foreman, Loco Shed, Phulera, Western Railway, Phulera, Jaipur Division, Distt. Jaipur.

.. Respondents

Mr. Dilip Sharma, proxy counsel to Mr. S.K.Saksena, counsel for the applicant.

Mr. R.G.Gupta, counsel for the respondents

CORAM:

HON'BLE MR. M.L.CHAUHAN, MEMBER (JUDICIAL)

HON'BLE MR. A.K.BHANDARI, MEMBER (ADMINISTRATIVE)

O R D E R (ORAL)

The applicant has filed this OA thereby praying for the following reliefs:-

"The applicant should be considered and extended the benefit as per the direction of the Tribunal vide order dt. 7.10.1994 in O.A. No.182/91 in

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pursuance of the vacancies of Khalasi Group 'D' advertised vide letter No. DRM (Estt.) Jaipur E/M/891/2 (Diesel Shed) dt. 06.08.1998 and the applicant's application dt. 01.09.1998."

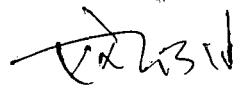
2. From the relief clause as reproduced above, it is evident that the applicant wants execution of the order dated 7.10.1994 passed by this Tribunal in OA No. 182/91. According to us, the OA is not proper remedy. In case the order dated 7.10.1994 passed in OA No.182/91 was not complied with, the remedy available to the applicant under the Administrative Tribunals Act, 1985 was either to file execution proceedings in terms of Section 27 of the Act or to file a Contempt Petition. From the material placed on record, it appears that the applicant has filed Contempt Petition in this Tribunal which was dismissed on 5.12.1997 on the ground of limitation. The applicant subsequently filed another Contempt Petition which was registered as CP No. 38/2000 and the same was also dismissed vide order dated 13.9.2000. The applicant also filed DB Civil Writ Petition NO. 596/2001 thereby challenging the order dated 13.9.2000 passed in Contempt Petition as well as appropriate directions for punishing the respondents for non-compliance of the order dated 7.10.94 passed in OA No. 182/91. The Hon'ble High Court vide its detailed order dated 9.4.2001 dismissed the Writ Petition. While disposing of the Writ Petition it was further observed that if the petitioner, so desires and if law permits, he may approach the Central Administrative Tribunal by initiating fresh proceedings.

3. As already stated above, for implementation of the order dated 7.10.94 passed in OA No. 182/91, the OA is not a remedy which is permissible under law. The second OA on the same cause of action is not maintainable. As such, the

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OA is dismissed.

4. In view of the order passed in the OA,
no order is required in MA No. 291/2002 for
condonation of delay


(A.K.BHANDARI)

Member (A)


(M.L.CHAUHAN)

Member (J)