

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH,
JABALPUR

Original Application No. 1152 of 2004

Indore, this the 17th day of August, 2005

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

K. Suryanarayana, S/o. Rama Rao,
Aged about 41 years, R/o. Therlam,
District – Vizianagaram (AP). Applicant

(By Advocate – Shri Indrasen Sahu)

V e r s u s

1. Union of India, through General Manager,
South Eastern Central Railway, Bilaspur,
(CG). Respondents
2. Divisional Railway Manager,
South Eastern Railway, Bilaspur (CG).
3. Senior Divisional Personnel Officer,
South Eastern Central Railway,
Bilaspur (CG). Respondents

(By Advocate – Shri H.B. Shrivastava)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicant has claimed the following main reliefs :

"(ii) set aside the termination order dated 29.8.1990,

(iii) direct the respondents to reinstate the applicant with all consequential benefits,

(iv) direct the respondents to extend the benefit of OA No. 27/1999 and OA No. 323/1999 to the applicants."



2. The brief facts of the case are that the applicant was initially employed as Casual Gangman in Bilaspur Division in pursuance to the circular dated 13.12.1989 (Annexure A-3). The applicant participated in the selection process wherein he was found suitable to engage as casual gangman on daily wages. The select list dated 14.2.1990 is marked as Annexure A-4. The applicant was discharged from service by the order of the respondent No. 3 dated 29.8.1990. No such discharge order was given by the respondents to the applicant. The applicant was discharged from service without any show cause notice or conducting any departmental enquiry. In the service certificate given by the respondents to the applicant it is mentioned that he has worked as Casual Gangman from 19.2.1990 to 3.5.1990 (Annexure A-5). Feeling aggrieved with the termination order dated 29.8.1990 some similarly situated employees filed OA No. 357/1991 which was decided by the Tribunal vide order dated 12.3.1997 (Annexure A-6). The Tribunal had quashed the order of discharge and it was directed to the respondents to take the applicant back in service. However, the applicants will not be entitled for back-wages. It was also ordered that the department will be at liberty to hold an enquiry and pass fresh orders. In-spite of the orders of the Tribunal dated 12.3.1997 passed another OA No. 357/1991 filed by the similarly situated employees, neither the applicants of OA No. 357/1991 nor the present applicant were reinstated in service and the respondents also did not conduct any departmental enquiry as per the direction of the Tribunal. The similarly situated employees filed another OA No. 29/1999 and after hearing, the Tribunal had passed the order dated 10.12.2003 whereby the termination of the applicant was set aside and the respondents were directed to reinstate the applicant with back-wages. Since the applicant was also terminated alongwith the applicants of OA No. 357/1991, he is also entitled for the same treatment as is given to the applicants of OA No. 357/1991 and 29/1999. Hence, he has filed this Original Application.

3. Heard the learned counsel for the parties and carefully perused the pleadings and records.

4. It is argued on behalf of the applicant that the respondents have issued service certificate to the applicant with remark that the applicant has worked as casual gangman from 19.2.1990 to 3.5.1990. The applicant was discharged from service vide order dated 29.8.1990. No such discharge order was given to the applicant. The case of the applicant is similar to other similarly placed employees who have filed OA No. 357/1991. But the respondents had not granted the applicant the similar treatment as was granted to the applicants in OA No. 357/1991. No action has been taken by the respondents to reinstate the applicant. The applicant is legally entitled for the reliefs claimed.

5. In reply the learned counsel for the respondents argued that the cause of action according to the applicant himself arose on 29.8.1990 and this OA has been filed nearly after 15 years. The applicant kept quite all these years and even did not submit a representation to the respondents. Hence, it goes to indicate that the applicant himself was not in a need of further employment. The prayer of the applicant for extending benefits as allowed to the applicants in OA No. 21/1999 and 323/1999 is without any merit and deserves to be rejected. On the point of lathes and delay the Hon'ble Supreme Court in the case of Bhoop Singh Vs. Union of India & Ors., 1992(3) SCC 136, has clarified the issue. The applicant cannot take any benefit of the orders passed by any Tribunal or any other court filed by similarly situated employees. The applicant himself has not sought the legal remedy available to him at proper time. The service certificate submitted by the applicant of his earlier previous employment in the Railways was verified and found to be fake and bogus and accordingly as per the terms of his appointment, his services were discontinued. Some of the similarly placed employees had approached the Tribunal by fling OA No. 27/1999 which was disposed of vide order dated 10.12.2003. This

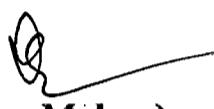
order dated 10.12.2003 is under challenge in WP No. 268/2004 before the Hon'ble High Court of Chhattisgarh at Bilaspur. The Writ Petition has not yet been decided. He further argued that the orders passed by the Tribunal in various OAs, where in person am and not in rem. There was no order in general by the Tribunal that the orders passed in OA filed by others will be universally applicable to all others. The claim made by the applicant for similar treatment is not maintainable. Hence, this OA deserves to be dismissed.

6. After hearing the learned counsel for the parties and on careful perusal of the pleadings and records, we find that the service of the applicant was ordered to be discharged vide order dated 29.8.1990 and he has filed this present OA on 17.12.2004 i.e. after about 14 years. In the application for condonation of delay filed by the applicant no proper and genuine reasons are given to explain the aforesaid delay of 14 years. The respondents have also stated that, even the applicant has also not submitted any representation to the respondents. The applicant is claiming similar relief which is given to the similarly situated employees who had filed various OAs before the Tribunal. But we find that the applicant was not himself a party in any of these OAs. The Hon'ble Supreme Court in the case of Bhoop Singh (supra) has held has under :

"Relief – Laches – Reinstatement – Claim of – Mass termination of service of agitating police constables – Subsequently some of them reinstated in service – Some others thereupon promptly filing petitions before High Court/Tribunal and obtaining orders quashing their termination and consequential relief of reinstatement – Appellant filing petition before Tribunal 22 years after termination of his service claiming relief of reinstatement on ground of discriminatory treatment in granting the same relief to his co-employees – Relief refused by Tribunal on ground of laches – Held, in absence of any convincing explanation such highly belated claim rightly rejected by Tribunal – Ground of discrimination consequent upon refusal to grant the relief cannot stand where the claimant himself is indolent unlike his co-employees and therefore cannot be classified with the co-employees since non-discrimination under Art. 14 is based on equitable principle – Inordinate and unexplained delay is itself a ground to refuse the relief – Grant of reinstatement

after a long lapse of time will have its impact on the administrative set up and other employees – in the circumstances refusal to grant the relief calls for no interference by Supreme Court.”

7. In view of the principles laid down by the Hon'ble Supreme Court in the aforesaid case, we do not find any ground to interfere in the matter and this OA is liable to be dismissed. Accordingly, the Original Application is dismissed. No costs.


(Madan Mohan)
 Judicial Member


(M.P. Singh)
 Vice Chairman

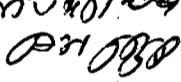
“SA”

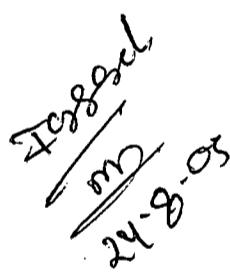
पृष्ठांकन सं ओ/व्या..... जबलपुर, दि.....
 प्रतिनिधि अध्येता:—
 (1) सहित, उच्च अदायक एवं उपरिदायक, जबलपुर
 (2) अध्येता श्री/कोर्टर्सी/एस
 (3) उच्चारी श्री/प्रीमर्टी/एस के कानून
 (4) विधायक, अध्येता, जबलपुर एवं अधिक
 सुनना एवं आवश्यक कार्यवाही छवि


 Indreshwar

 Bishwanath


 H.B. Bhurji


 P.M. B.P.


 M.M.
 24-8-05