

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
JAIPUR BENCH

Jaipur, this the 24th day of May, 2011

Original Application No.166/2011
With MA No.122/2011

CORAM:

HON'BLE MR. JUSTICE K.S.RATHORE, MEMBER (JUDL.)
HON'BLE MR. ANIL KUMAR, MEMBER (ADMV.)

Alli Dhanna
s/o Shri Dhanna
r/o Shanti Nagar,
Vijay Nagar Road,
Oppositee Afsana Welding
Sendria, Beawar, Distt. Ajmer,
presently working as Sarang,
Divisional Office,
North West Railway, Ajmer

.. Applicant

(By Advocate: Shri D.C.Gupta)

Versus

1. Union of India
through The General Manager,
North West Railway,
Jaipur
2. The Divisional Railway Manager,
Divisional Office,
North West Railway,
Ajmer.
3. The Divisional Railway Manager,
Divisional Office (Establishment),
North West Railway,
Ajmer..

.. Respondents

(By Advocate:

ORDER (ORAL)

The present OA is directed against the order dated 24.9.1997 by which the pay of the applicant has not been fixed on the post of Sarang (Group-C) in the scale of Rs. 950-1500.

2. Brief facts of the case are that the applicant was initially appointed on the post of Sarang on 22.1.1976 and was given temporary status w.e.f. 1.1.1981 vide Ann.A/3. The services of the applicant were regularized on the post of Gangman (Group-D) post vide order dated 24.9.1997.

3. The applicant filed representation against the said action of the respondent and thereafter filed OA No.428/1997 before this Tribunal and the same was disposed of vide order dated 2.2.1998 with direction to consider case of the applicant for regularization in Group-C post of Sarang.

4. The case of the applicant was also recommended by the Deputy Director, Pay Commission, Railway Board on 17.3.2004 but the respondents have not considered representation as well as recommendation made by the Deputy Director, Pay Commission. Thereafter the applicant made representation on 7.11.2007 followed by another representation dated 22.10.2009 and ultimately served with notice for demand of justice through his counsel on 20.3.2010.



5. The present OA has been filed after an inordinate delay as cause of action was made available to the applicant in the year 1997. The regularization of screened project casual labours working in the Construction Unit, Ajmer was made vide order dated 24.9.97. By this order the provisional panel of the screened and empanelled project casual labours notified vide letter dated 4.9.97 were regularized and posted as Gangman in the scale of Rs. 775-1025 (RP). This order dated 24.9.1997 by which order of provisional regularization has been passed was assailed by the applicant by way of filing OA No.428/97 before this Tribunal and vide order dated 2.2.98 the Tribunal directed the respondents to consider the case of the applicant. It is alleged that the direction issued by the Tribunal has not been complied with.

6. The application also preferred MA No.122/2011 for condonation of delay. We have thoroughly considered the submissions made on behalf of the applicant and the relief claimed. Admittedly, Ann.A/1 was passed in the year 1997 and the same have been assailed by way of filing OA No.428/97 and after claim of the applicant has not been considered by the respondents as directed by this Tribunal vide order dated 2.2.1998, the applicant was not remediless and could have filed Contempt Petition for redressal of his grievance in accordance with provisions of law well within time.

7. Now the present OA has been preferred claiming same relief as claimed earlier after an inordinate delay and the delay has not been properly explained as we have gone through the application

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for seeking condonation of delay. The applicant seeks condonation of delay in filing the OA on two grounds, first with regard to repeated representations followed by notice for demand of justice. thus, the OA is within limitation and further on the ground that Shri V.K.Mishra advocate had died in the month of June, 2010 but the applicant was not in the knowledge and this fact came in the knowledge to the applicant in the month of December, 2010 then the applicant went his house but file was not traceable and the file was traced on 25.3.2011. This plea of the applicant is also not tenable as the impugned order has been passed way back in the year 1997 and advocate of the applicant died in the month of June, 2010.

8. Thus, the present OA is barred by limitation as per the law laid down by the Hon'ble Apex Court in the case of D.C.S.Negi vs. Union of India in Special Leave to Appeal (Civil) No.7956 vide judgment dated 7.3.2011.

9. Accordingly, the OA as well as MA for condonation of delay are dismissed in limine.

Anil Kumar
(ANIL KUMAR)
Admv. Member

K.S. Rathore
(JUSTICE K.S.RATHORE)
Judl. Member

R/