

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
CIRCUIT SITTING : INDORE

Original Application No.201/01034/2016

Indore, this Wednesday, the 14th day of March, 2018

HON'BLE SHRI UDAY KUMAR VARMA, ADMINISTRATIVE MEMBER
HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER

Jagdish Soni S/o Basantilal Soni
Age about 51 years, Occu: Labour
R/o 3-A Shriram Nagar New Bangali
Square, Kanadia Road Indore (M.P.)
PIN 452016 M.No. 8982978848

-Applicant

(By Advocate –**Shri S.L. Soni**)

V e r s u s

1. Union of India
Through its Chairman cum Managing Director
Ministry of Communications
Department of Tele Communications
Sanchar Bhawan 20 Ashok Road,
New Delhi 110001

2. The Chief General Manager (Telecom)
Madhya Pradesh Telecom Circle,
Bharat Sanchar Nigam Ltd.
Doorsanchar Bhawan Bhopal 462015

3. The General Manager,
Bharat Sanchar Nigam Ltd.
Dhar Distt. Dhar 454001

- Respondents

(By Advocate –**Shri Prateek Patwardharn**)

ORDER

By Uday Kumar Varma, AM:-

The applicant through this Original Application is seeking benefit of temporary status/regularization as granted to similarly situated persons since the year 1995.

2. The brief facts of the case as given by the applicant in the Original Application is that the applicant was initially engaged on master roll w.e.f.06.03.1985 at Nalcha District Dhar under control of Sub Divisional Officer (Telecom) Dhar and his name was entered as Casual Labour. His name was also registered in the District Employment Exchange, Dhar. The District Employment Exchange Dhar had also circulated the list of four candidates for employment on 11.06.1985 but his name was not included in that list. The applicant claims that he had worked for 214 days between 3/85 to 9/98, 567 days between 10/85 to 5/87, 818 days between 6/87 to 3/90 and 396 days between 4/90 to 12/91. The applicant further contends that the Director, Telecom Circle, Bhopal was sent the circular/orders of Government of India, Ministry of Communication with regard to initiating the process of absorption of Casual Labours in the light of the Hon'ble Supreme Court judgment dated 27.10.1987 in Writ Petition No.373/1986. It is further stated that the respondents were further directed vide order

No.IM 03/05/11/Supdt/30 dated 26.02.1988 for regularization of all casual labours, part time employees as per Hon'ble Supreme Court decision dated 05.02.1986. The applicant has claimed that Telecom District Engineer Malwa had granted the temporary status and regularized as many as 43 labours vide order R.16/Class IV appointment/95-96/4 dated 21.02.1996 w.e.f. 01.04.1995 and not only this, Bharat Sanchar Nigam Limited also regularized 8 casual labours by order E-6/Trg./ST/G & H/2003-04/19 dated 18.08.2003. These casual labours are much junior to the applicant.

3. The applicant has further submitted that he had given representation dated 31.03.1998 and 27.07.2015 but the respondents have not given any response in this regard. He also submitted legal notices through his advocate. It is therefore argued by the applicant that since persons junior to him have been given temporary status and have been subsequently regularized, his claim for temporary status/regularization should be granted by the respondents from the date his juniors were granted.

4. The respondents have by filing a reply rebutted the claim of the applicant. Their first objection is with regard to limitation and they have stated that the applicant has come before the Tribunal after an unusual and unreasonable delay of 25 years. They have

further submitted in their reply as also at the time of oral hearing that the applicant ceased to be in employment of the respondents after December 1991. Therefore, at the time of any subsequent action of grant of temporary status or regularization, the applicant could not have been considered as he was not in the employment at all. They have, therefore, prayed that the Original Application be dismissed for want of merit.

5. We have considered this whole issue very carefully as it pertains to issue of temporary status/regularization.

6. It cannot be disputed that the applicant has approached the Tribunal after a lapse of almost 25 years. In the Original Application, under the heading of “limitation”, it is mentioned that he had submitted various applications, personally approached and served legal notices and this matter relates to wages and therefore is under limitation. We also notice that he has not moved any application for condonation of delay.

7. The delay of over 25 years even in a matter like this is by any stretch of imagination a very long delay. The only explanation made available in the Original Application is that he had made representations. There is a specific mention in the Original Application that he has made representation once on 31.03.1998

and another on 27.07.2015. There is also a mention about legal notices in 2016 namely on 08.01.2016, 09.03.2016 and 30.03.2016. It is, thus, clear that the applicant has merely gone through the formality of making the representation and that too, first after a gap of 7 years and then after a gap of 17 years. The legal notices have come much later in the year 2016. It is an established principle of law that repeated representations do not justify delay under the law of limitation. In the instant case, the representations themselves have been so erratic and so delayed that seeking such a protection and granting the same will make a travesty of law. The law laid down by the Hon'ble Supreme Court while emphasising that any condonation should be dealt with sympathetically, also lays down that inordinate delays without any explanation do not deserve to be condoned.

8. It is, therefore, our considered opinion that this Original Application is hopelessly time barred and deserves to be dismissed on this count alone.

9. However, we have also considered this Original Application on its merit. The only argument placed before us by the applicant in his favour is that similarly placed and junior persons have been given temporary status and regularization subsequently. However,

no explanation or evidence is on record as to how the people who were given temporary status or regularized subsequently, were junior to him. He has neither produced any list containing the names of casual labours engaged along with him to establish that he was senior to those who were subsequently regularized, nor has he placed before us any document that establishes that other persons who were regularized were junior to him. Further, he has also not explained the fact that as after December 1991 he was no more in employment of the respondents therefore how he could have been given temporary status or could have been regularized in absentia. The applicant has not stated anything with regard to his status after December 1991 and the circumstances under which he was disengaged. Any relevant information in this regard could have given some credibility to his claim. Unfortunately, there is nothing on record to establish or even suggest that the claim made by the applicant has emanated from a set of facts that offers a reasonable legal opportunity for favourable interpretation.

10. Given the above facts, we are unable to persuade ourselves that the applicant's claim deserves any serious consideration. As a matter of fact, he has been rather casual in respect of seeking judicial remedy and has approached the Tribunal after an

inordinately long gap of 25 years and this makes the case of the applicant untenable in the eyes of law.

11. In view of the above discussions, we are of the considered view that the Original Application is bereft of merit and deserves to be dismissed both on account of limitation and on merit and is accordingly dismissed. No costs.

(Ramesh Singh Thakur)
Judicial Member

(Uday Kumar Varma)
Administrative Member

kc