

**Central Administrative Tribunal
Madras Bench**

OA/310/00700/2019

Dated the 14th Day of August Two Thousand Nineteen

P R E S E N T

Hon'ble Mr. P.Madhavan, Member(J)
&
Hon'ble Mr.T.Jacob, Member(A)

K.Dayalan
S/o Shri P.Kannappan,
No.74, Ambika Street,
Golden George Nagar,
Nerkundrum,
Chennai 600 107.
By Advocate **M/s.K.M.Ramesh**

.. Applicant

Vs.

1. Union of India, rep by the
Chief Postmaster General,
Tamil Nadu Circle,
Chennai 600 002.
2. The Manager,
Mail Motor Service,
Greames Road,
Chennai 600 006.

.. Respondents

By Advocate **Mr.S.Nagarajan**

ORDER

[Pronounced by Hon'ble Mr.P.Madhavan, Member(J)]

This is an OA filed seeking the following relief:-

“.....to set aside the order issued by the 2nd respondent bearing No.MSE/B9-7/CL dated 20.2.2019 rejecting the representation of the applicant for regularization of his services from the date of initial entry into service and consequently direct the respondents to regularize the service of the applicant in the cadre of Driver with effect from the date of entry into service i.e. from 19.4.1985 with all attendant and monetary benefits and pass such other order or direction as this Tribunal may deem fit and proper in the circumstances of the case and thus render justice.”

2. The brief facts of the case are that the applicant was engaged as casual Driver from the year 1985 onwards and thereafter in the year 1987 he was appointed as Staff Car Driver in the scale of pay of Rs.950-1500 in the existing vacancies w.e.f. 01.12.1987. His services as Driver was confirmed w.e.f. 01.1.1994 by order dated 06.12.1994. He came to understand that some of his colleagues who also worked as casual adhoc Drivers got their services regularized through the Tribunal and he accordingly gave representations to the competent authority dated 19.9.2018 and 26.12.18. But the respondents had rejected the said representations. According to the applicant, the action of the respondents is highly arbitrary and he is entitled to get the regularization of his service as per the decision of this Tribunal in OA Nos.288, 737 & 838 of 2009 dated 20.10.2010 which is produced as Annexure A18. According to the applicant, the applicant is also entitled to get regularized his service w.e.f. 1985 onwards.

3. Today, the matter came up for admission and both sides were heard on the question of limitation. It has come out during the hearing that the applicant is mainly relying on the decision of this Tribunal in a case decided in the year 2010 in OA Nos.288, 737 & 838 of 2009. Therefore, it is clear that the cause of action in the instant case arose actually in the year 2010 itself. Thereafter, no action was taken by the applicant till the year 2019 when he filed this OA. It is also seen that the first representation was made by the applicant on 19.9.2018 i.e. after a period of more than eight years and the second representation on 26.12.18. The respondents had rejected the claim of the applicant by impugned order dated 20.2.2019, which order will not, in any manner, condone the inordinate delay in filing the OA. There is no explanation offered by the applicant as to why he did not approach the Tribunal for such a long time. The Hon'ble Supreme Court in ***State of U.P. & Ors. v. Arvind Kumar Srivastava & Ors. [reported in 2015 (1) SCC 347]*** has held in para 1 &2 as follows:-

“(1) Normal rule is that when a particular set of employees is given relief by the Court, all other identically situated persons need to be treated alike by extending that benefit. Not doing so would amount to discrimination and would be violative of Article 14 of the Constitution of India. This principle needs to be applied in service matters more emphatically as the service jurisprudence evolved by this Court from time to time postulates that all similarly situated persons should be treated similarly. Therefore, the normal rule would be that merely because other similarly situated persons did not approach the Court earlier, they are not to be treated differently.

(2) However, this principle is subject to well

recognized exceptions in the form of laches and delays as well as acquiescence. Those persons who did not challenge the wrongful action in their cases and acquiesced into the same and woke up after long delay only because of the reason that their counterparts who had approached the Court earlier in time succeeded in their efforts, then such employees cannot claim that the benefit of the judgment rendered in the case of similarly situated persons be extended to them. They would be treated as fence-sitters and laches and delays, and/or the acquiescence, would be a valid ground to dismiss their claim.....”

From the above, it is clear that the applicant was a fence-sitter and he slept over the matter till 2019 and has now come before this Tribunal seeking a similar relief which was passed by this Tribunal in 2010 in OA Nos.288, 737 & 838 of 2009. The applicant could not give any explanation for the inordinate delay and the OA is clearly barred by limitation. So, this OA cannot be entertained as it is hopelessly barred by limitation as per Section 21 of the AT Act.

4. Accordingly, the OA is dismissed at the threshold itself as barred by limitation.

No costs.

(T.Jacob)
Member(A)

(P.Madhavan)
Member(J)

14.08.2019

/G/