

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

O.A. NO. 2859/2003

New Delhi, this the 17th day of March, 2005

**HON'BLE MR. JUSTICE V.S. AGGARWAL, CHAIRMAN
HON'BLE MR. S.A. SINGH, MEMBER (A)**

1. Gurpreet Singh
s/o Shri Jawalla Ram,
r/o V&PO Kochi Bachmoha,
District Bathinda, Punjab.
2. Hakam singh
s/o Shri Surjeet Singh,
r/o village Karpeta, P.O. Khas,
District Bathinda, Punjab.
3. Nanju Ram
s/o Shri Bhagat Ram,
c/o J.R. Rana,
IFFCO Area Office, Bhagan Road,
District Bathinda, Punjab.
4. Kashmir Sharma (Singh)
s/o Shri Nand Singh,
c/o Jagat Ram,
Old HES Quarter No. 289,
District Bathinda, Punjab.
5. Billu Singh
s/o Shri Kaka Singh,
r/o village Bhagu,
District Bathinda, Punjab.
6. Budh singh,
s/o Shri Gurdev Singh,
r/o village Lehra Muhabbat,
District Bathinda, Punjab.
7. Bhagat Singh,
s/o Shri Jarnail Singh,
r/o village Gulabgarh (Naiwala)
District Bathinda, Punjab.
8. Bhagwan Singh s/o Sh. Bikar Singh,
r/o village Bhagn,
District Bathinda, Punjab.

9. Rajesh Kumar
s/o Sh. Lal Bir Chand,
r/o 4166, Kihla Road, Bathinda,
District Bathinda, Punjab.
10. Raj Kumar
s/o Sh. Tej Ram,
r/o V & P.O. Tungwali,
via Bhucho Mandi,
District Bathinda, Punjab.
11. Bali Singh
s/o Sh. Deva Singh
r/o V & P.O. Bibiwala,
District Bathinda, Punjab.
12. Ramana Singh
r/o Killa Road,
Verma Kainohi House,
District Bathinda, Punjab.

...Applicants

(By Advocate: Shri D.K. Garg and Shri M.A.Khan)

-versus-

1. The Secretary,
Ministry of Defence,
Government of India,
South Block, New Delhi.
2. Lt. General, ENG Branch (MES),
Kashmir House,
New Delhi.
3. Major General, Western Command,
Chandi Mandir, Chandigarh.
4. Chief Engineer, Bathinda Zone,
Military Station, Bathinda Cantt. Punjab.
5. CWE Headquarter,
Military Station,
Bathinda, Punjab.
6. Garrison Engineer, GUT,
GP No. 2, Military Station,
Bathinda, Punjab.

...Respondents

(By Advocate: Shri Madhav Panikar)

ORDER (ORAL)**Justice V.S. Aggarwal, Chairman:**

Applicants were appointed as Mazdoor/Motor Pump Attendants (for short 'MPA') in the Headquarters Commander Works-Engineer, Bathinda Mil Station sometimes in 1981. Applicant no. 11 was appointed in the year 1972. Their services were terminated in the year 1987. On 12.8.1993, the applicants had filed Original Application No. 1120/1991 and other petitions in the Chandigarh Bench of this Tribunal. The Chandigarh Bench of this Tribunal disposed of the same on 19.8.1993 holding that alternative relief was available by raising the industrial disputes. The applicants thereupon preferred Civil Appeal in the Supreme Court, which was disposed of on 22.7.1996. The Apex court had passed the following order:

"Leave Granted.

These matters were tagged with civil appeal no. 1742 of 1990 entitled Shri Ramesh Kumar vs. Union of India & Ors., which has been disposed of by an order dated 13th September, 1994. In terms of the decision of this Court in State of Haryana vs. Piara Singh 1992(4) SCC 118, directing the Union of India to deal with the case of the appellants in terms of that decision, we give the same direction in the present appeals.

The appeals are disposed of accordingly.

Sd/-
(J.S.VERMA) J.
sd/-
(B.N.KIRPAL) J."

2. After the decision of the Supreme Court, it is contended that the applicants were re-instated on the post of Mazdoor and placed on



probation on 22.6.1998. The operative part of the representative order is:

"1. You have been selected for the appointment as temporary Mazdoor in the roll of MES on the pay scale of Rs. 2550-55-2660-60-3200, plus all allowances as admissible from time to time.

2. The terms and conditions of the appointment are as under:

(a) The post is temporary. In the event of its becoming permanent, your claim for permanent absorption will be considered in accordance with the rules in force.

(b) You will be on probation for a period of two years from the date of appointment. Failure to complete the period of probation to the satisfaction of the competent authority will render you liable to be discharged from service.

(c) Your appointment will be subject to satisfactory character verification by police/civil authorities. Unsatisfactory report will render you liable for termination of your service with retrospective effect without any advance notice and without any service/monetary benefits."

They were subsequently regularly absorbed.

3. By virtue of the present application, they seek a direction to the respondents to grant seniority and other consequential benefits at least on the post of Mazdoor from their initially appointment till the date of their fresh appointment.

4. The application is being contested. On behalf of the respondents, a plea has been taken that the application is barred by time. This Tribunal has no territorial jurisdiction to entertain the petition at New Delhi and

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in any case it is an industrial dispute and, therefore, initially this Tribunal should not entertain the application.

5. We have heard the parties' counsel and have seen the relevant record.

6. For the present, we shall look into the controversy pertaining to the question of limitation raised on behalf of the respondents.

7. Respondents contended that the applicants were placed on probation on 22.6.1998. They did not care to file the application within one year of the same claiming the present relief because cause of action had arisen to them at that time. Resultantly, the petition must fail.

8. In answer to the same, the applicants' counsel pleaded that since reply to the legal notice had been received on 23.7.2003, therefore, the petition is within time.

9. Under the provisions of the Administrative Tribunals Act, 1985, Section 21 prescribes the period of limitation to be one year from the date of passing of the final order.

10. Reverting back to the facts, it is patent that applicants had been placed on probation on 22.6.1998 and after 4-5 years i.e. on 14.6.2003, they served a notice. The reply to the same was sent to the applicants from the Headquarters Commander Works Engineer, Bathinda Mil Station on 1.8.2003, which reads:

"Dear Sir,

1. Reply to the Legal Notice dated 14 Jun 2003 prepared by Shri Sanjay Goyal, Advocate,



Addl., CGSC Chandigarh is forwarded herewith for your information please.

2. It is further informed that while accepting the appointments as Mazdoor during Jun 1998 the applicants mentioned in the Legal Notice had given an undertaking that they will not make any representation at lateron. A photocopy of the same for one of the applicant is enclosed.

3. It is also submitted that this is time barred case and you are requested not to open the case at this belated stage.

Yours faithfully,

Sd/-

(Des Raj)
Adm Offr
For CWE Bathina"

It clearly shows that the applicants were informed through their counsel that the notice was barred by time and so was the claim.

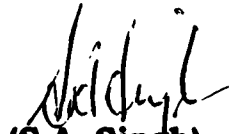
11. If to the same notice a detailed reply of 23.7.2003 has been sent, it will not extend the period of limitation because both the replies are pertaining to the same notice that had been sent.

12. We know from the decision in the case of **S.S. Rathore vs. State of Madhya Pradesh**, AIR 1990 (SC) 10, that repeated representations will not extend the period of limitation.

13. In the present case before us, even the legal notice had been sent after five years of the cause of action having arisen when the applicants were placed on probation. There is even no application for condonation of delay. Resultantly, we are of the considered opinion that application is barred by time and there is, thus, no need to go into other controversy.



14. For these reasons, the Original Application being without merit must be dismissed to be barred by time.



(S.A. Singh)
Member (A)

/na/



(V.S. Aggarwal)
Chairman