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Court : Central Administrative Tribunal CAT Delhi

Decided On : Feb-14-2012

Judge : The Honourable Mrs. Meera Chhibber, Member (J) & the Honourable Mr. Shailendra Pandey, Member (a)

Appeal No. : O.A. No. 490 of 2012 & M.A. No.398 of 2012

Appellant : Mohan Lal

Respondent : Union of India : Through the General Manager, Western Railway, Church Gate, Mumbai and Others

Advocate for Pet/Ap. : For the Applicant: Aftab Rasheed, Advocate. For the Respondents: -----

Judgement :

ORAL:

Mrs. Meera Chhibber, Member (J)

1. Applicant has sought direction to the respondents to reinstate him in the category of Class-IV employee in the interest of justice.

2. The brief facts, as stated by the applicant, are that he had worked as Loco Foreman with respondents No.2 and 3 from 26.11.1976 to 10.12.1985. On 4.1.1977 applicant was sent to DMO, Jaipur, for medical examination for A-1 category but he could not succeed. He got himself treated through the Eye Specialist but his medical examination was not re-done in spite of his representation. Applicant has given many representations to the respondents for reinstatement but no order has been passed by the respondents. Applicant along with other employees had filed OA No.122/1992 which was disposed of on 18.1.1995 by directing the applicants to give representation to the respondents within one month from the receipt of the order but applicant was not in touch with his colleagues and counsel so he was not aware about the passing of the above order. Applicant gave representation on 28.2.2004 for appointing him in the light of the order of the court, but no order was passed, therefore, applicant had no other option but to file the present OA.

3. Applicant has also filed MA No. 398/2012 seeking condonation of delay on the same ground that he was not in touch with his colleagues and counsel so he was not aware about the passing of the above order. He came to know about the order passed in the earlier OA only in 2004, therefore, delay may be condoned.

4. We have heard counsel for the applicant.

5. From the averments made by the applicant himself it is clear that he was disengaged in the year 1985. It is stated by the applicant that he filed OA No.122/1992 along with number of other persons. Perusal of order dated 18.1.1995 passed in OA No.122/1992 shows that the OA was disposed of with a direction to the respondents to include the names of the applicants in the Live Casual Labour Register, if they are eligible for such inclusion in terms of Circular dated 28.8.1987 and give engagement to the applicants as casual labourers if and when need for such engagement arises in accordance with their seniority maintained in that Register. The applicants were directed to submit their representations to the competent authority with full details of their service and proof relating to the claim that they are entitled to be included in the Live Casual Labour Register. It was further directed that in case any such representations are

received, respondents shall dispose of the same in accordance with law (page 9 at 11).

6. From above, it is absolutely clear that the applicant was directed to give a representation to the authorities pursuant to the order dated 18.1.1995 giving full details of his service proof relating to the claim to the effect that he is entitled to be included in the Live Casual Labour Register. It also goes without saying that once a case was filed by the applicant, it was his duty, to find out the outcome of the said case. The OA was disposed of as back as in 1995. No effort was made by the applicant to know the outcome of the said OA, therefore, naturally he would not have made any representation to the authorities. Since applicant had not even given any representation within the stipulated period of one month from the date of receipt of a copy of this order, naturally no duty was cast on the respondents to pass order with regard to the applicant. Applicant has filed present OA on 9.2.2012, i.e., after a period of about 17 years from the date his earlier OA was decided.

7. The only ground taken by the applicant in the OA as well as MA for seeking condonation of delay is that he was not in touch with his colleagues and counsel, therefore, he could not know about the result. As per Section 21 of the Administrative Tribunals Act, 1985, period of limitation is one year from the date of cause of action, therefore, the OA is clearly barred by limitation. Simply because some order was passed in the case of applicant it does not give him a right to approach the court at his own convenience by ignoring the directions given by the court. As per the judgment duty was cast on the applicant to give a representation within the stipulated period which was not done by him. Moreover, as per applicant's application for condonation of delay, he had come to know about the judgment in 2004 but no proof has been placed on record to show that he came to know about the judgment in 2004. Even if it is assumed for the sake of argument that he came to know about the judgment in 2004 still the present OA has been filed in 2012, i.e., after 8 years from the said date also without explaining the delay, therefore, the OA is hopelessly barred by limitation. Though applicant has filed application for condonation of delay but it has been filed merely as a formality as no sufficient cause has been shown in the application nor any documents have

been filed to substantiate the averments made in paras 3 and 4 thereof. Application for condonation of delay is not to be filed as a mere formality but is required to be filed to show to the satisfaction of the court as to why the person concerned could not approach the court within the period of limitation. Since no sufficient cause has been shown by the applicant, the MA for condonation of delay is rejected.

8. Applicant is seeking reinstatement after over a period of 26 years. In the case of Ratan Chandra Sammanta and Ors vs. Union of India and Ors (JT 1993 (3) SC 418) the casual labourers of Railways had approached the Hon'ble Supreme Court after over 15 years seeking a direction to reinstate them in service but neither in the petition any averments were made nor any supporting documents were placed on record. In such case Hon'ble Supreme Court observed as follows:-

“The petitioners did not take any step to enforce their claim before the Railways except sending a vague representation nor did they even care to produce any material to satisfy this Court that they were covered in the scheme framed by the Railways. It was urged by the learned Counsel for petitioners that they may be permitted to produce their identity cards etc., before opposite parties who may accept or reject the same after verification. We are afraid it would be too dangerous to permit this exercise. A writ is issued by this Court in favour of a person who has some right. and not for the sake of roving enquiry leaving scope for manoeuvring. Delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation a person who has lost his remedy by lapse of time loses his right as well”.

9. The case in hand would be fully covered by the observations made by Hon'ble Supreme Court in the above said case. In the present case also applicant has not annexed any document to show that he had worked with the respondents from 26.11.1976 to 10.12.1985 nor he has placed on record any representation, therefore, the OA is absolutely vague and without any merit. The same is rejected at the admission stage itself on limitation as well as merit both. No costs.