

Writ Petition No. 4852 of 2012

27/06/2012

Shri Pranay Choubey, learned counsel for the petitioner.

Heard on admission.

Order dated 8th February, 2012 passed by the Central Administrative Tribunal, Jabalpur Bench, Jabalpur in O.A. No. 650/2008 is being assailed by the petitioner under Article 227 of the Constitution of India. By the impugned order Tribunal negated the claim put forth by the petitioner seeking direction to respondents and its functionaries to consider his claim for regularization.

The relief was sought on the fact that the petitioner appointed as Casual Labour in the Central Railway, Bhusawal Division on 17-04-1982 worked continuously till 02-12-1988 when he was removed from service. It is contended by the petitioner that though removed from service his name was placed in live register maintained by the respondent/railways. It was contended that being in live register he was entitled for being considered for absorption in group-D posts in the railways along others, who were subsequently engaged as Casual Labours. It was contended by the petitioner before the Tribunal that on 24-10-2004 representation was filed before the Assistant Engineer (Maintenance) Itarsi, which

was duly forwarded to the Competent Authority for General Manager's sanction to engage the applicant as Casual Labour in the Division. It was further contended that the name of the petitioner was shown in Live Register for the period from 03-02-1988 to 29-11-2005, therefore, respondents were duty bound to have contacted him and call him for screening to absorb on class-IV post against vacancies. This claim was on the basis of Railway Board's circular dated 11-05-1999. it was further contended that similarly situated person as the petitioner was given by Bombay Bench of the Central Administrative Tribunal vide O. A. No. 2201/2003, 2202/2003, 2203/03 and 2206/2003 decided on 18-04-2006.

Countering the contentions made by the petitioner before the Tribunal, the respondents besides raising an objection regarding jurisdiction as also that the claim is belated contended that the name of the applicant was not available in Live Register maintained in the office of Bhopal Division, West Central Railway and since the petitioner failed to submit any application for inclusion of the same in the supplementary Live Register in response to notification dated 17-01-2000 in respective depot he was not called for screening. The Tribunal on the basis of rival contentions declined to entertain the Original Application preferred by the petitioner for the

following reasons :

"6. Indisputably the Applicant was discharged from service as casual labourer way back in the year 1988. It is also not in dispute that process of absorption was initiated vide Railway Board's circular dated 11.05.1999 and in compliance thereof the respective divisions initiated proceedings for updating the live registers by issuing notifications and calling information from all concerned casual labourers for inclusion of their names in the supplementary live register. The applicant claims to have worked in the Central Railway Bhusawal Division between 1982 to 1988 and he was issued casual labourer service card of Annexure A-1 and the said card bears entry dated 3-12-1988, made by PWI North Central Railway Vidisha. However, the Respondents have categorically stated in their reply that the name of the applicant does not figure in the live register/supplementary live register maintained at Bhopal Division. The Applicant had cause of action, when he was not called for screening in the year 2003-2004. According to the Applicant no decision was taken on his representation submitted on 2004 though the same was forwarded by the concerned AEN on 6-11-2004 for obtaining GM's sanction. However, the Applicant has approached the Tribunal by filing this OA on 25.9.2008 i.e. after more than four years. Thus, taking into consideration the factual disputes in this matter, which pertains to inclusion of the applicant's name in the live/supplementary live register in Railway Division Bhopal, which could be verified by reference to old records pertaining to the year

1988/2004, an inordinate delay of four years in filing this OA, attains significance. We are not able to accept the contention of the Applicant that he approached the Tribunal only after he came across the judgment of the Bombay Tribunal delivered in the year 2006 wherein similarly placed casual labourers were extended certain benefits, as the same may not be a valid ground for explaining the delay and the Applicant should also have approached the Tribunal in the year 2002 itself as was the case in the cited judgment. We also find substance in the argument of the learned counsel for the Respondents that the Applicant did not approach the concerned depot in response to the notification dated 17.1.2000 issued by the Bhopal Division for inclusion of the names of the casual labourers in the supplementary live register, whose name did not figure in the live register maintained at Bhopal Division."

The Tribunal also found that the petitioner's case was not similar to the applicant before the Bombay Bench of the Tribunal.

After hearing the learned counsel for the petitioner at length and taking into consideration the fact that the petitioner has worked only for the period from 17-04-1982 to 03-12-1988 and there being no cogent material on record that after 03-12-1988 the petitioner was ever engaged as casual labour, the petitioner cannot on the basis of the order passed by Bombay Bench of the Central Administrative Tribunal on 18-04-2000 reap any benefit therefrom. It is nearly after 20

years when his services were terminated on 03-12-1988 that OA was filed before the Central Administrative Tribunal at Jabalpur. The tribunal in our considered opinion was justified in rejecting the Original Application of the petitioner not only for the reason that it being devoid of merit but also on the count of delay and laches. In respect of delay and laches it has been recently observed by the Apex Court in *State of Orissa and another v. Mamta Mohanty* [2011] 3 SCC 436:

“54. This Court has consistently rejected the contention that a petition should be considered ignoring the delay and laches in case the petitioner approaches the Court after coming to know of the relief granted by the Court in a similar case as the same cannot furnish a proper explanation for delay and laches. A litigant cannot wake up from deep slumber and claim impetus from the judgment in cases where some diligent person had approached the Court within a reasonable time (See *Rup Diamonds v. Union of India* : [(1989) 5 SCC 356], *State of Karnataka v. S. M. Kotraya*: [(1996) 6 SCC 267] and *Jagdish Lal v. State of Haryana* [(1997) 6 SCC 538].”

In view whereof no interference is warranted. In the result, petition fails and is hereby dismissed.

(AJIT SINGH)
JUDGE

(SANJAY YADAV)
JUDGE

SC