

(2017) 03 DEL CK 0028

In the Delhi High Court

Case No : Writ Petition (Civil) No. 950 of 2017

Khazan Singh

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 16-03-2017

Acts Referred:

Constitution of India, 1950 — Article 226

Citation : (2017) 2 LLJ 337

Hon'ble Judges : Mr. Sanjiv Khanna and Mr. Chander Shekhar, JJ.

Bench : Division Bench

Advocate : Mr. D.K. Garg, Mr. Dhananjay Garg and Mr. Abhishek Garg, Advocates, for the Petitioner; Mr. Rakesh Kumar, CGSC and Mr. Dushyant Singh, Advocate, for the Respondent No. 1; Mr. Rajinder Wali, Advocate, for the Respondent No. 2

Final Decision : Dismissed

Judgement

Mr. Sanjiv Khanna, J.(Oral) - Khazan Singh in this writ petition impugns the order dated 8th November, 2016 passed by the Principal Bench of the Central Administrative Tribunal (Tribunal, for short) whereby OA No. 4400/2012 filed by him has been dismissed on the ground of delay and laches/limitation and estoppel.

2. The petitioner herein was engaged as a casual worker on daily wages. The engagement was without following any selection process.

3. The petitioner had filed Writ Petition No. 1995/1993 seeking regularisation. This writ petition was disposed of by consent order dated 30th May, 1997, which has been reproduced in the impugned order and reads as under:-

"C.M. No. 4846/97 and CW 1995/93

This is an application moved by the Petitioner for the disposal of writ petition in terms of letter dated 12.2.1997 of ITPO General Manager (Admn.); 2.4.1997 of ITPO, Senior Manager and para 3 of the reply dated 26.5.1997 filed on behalf of

respondents 1 and 2.

Learned counsel for the respondents states that he has no objection for disposal of the writ petition in terms thereof.

In view of the stand taken by the parties, the writ petition is disposed of in terms of the letters dated 12.2.1997 of ITPO. General Manager (Admn.) 2.4.1997 of ITPO, Senior Manager and para 3 of the reply dated 26.5.1997 filed on behalf of respondents 1 and 2. Para-3 of the reply dated 26.5.1997 says:-

"3. The actual terms of agreements reached between the parties are as follows:-

(a) The management is desirous to settle the matter with the concerned employees and accordingly, it was agreed that employees will be absorbed in the existing regular vacancies to the extent of vacancies available.

(b) As regards those employees in the writ petition No. 1995 filed on behalf of 35 persons and who cannot be regularized immediately due to not having sufficient vacancies, the status due will be maintained.

The aforesaid terms were communicated vide Letter No. 4 ITPO (5) E, 1/97 dated 12.2.1997 and also clarified subsequently vide letter No. 4-ITPO (5) E, 1/97 dated 2.4.1997 that the status quo will be maintained till they are regularised in future."

The statements contained in the two letters and the reply is taken on record and writ petition is disposed of in terms thereof. Parties shall be bound by the terms."

4. A reading of the said order would indicate that the petitioner had accepted the offer made by the respondents in terms of an agreement as per which the petitioner and other casual workers were to be absorbed in the existing regular vacancies to the extent vacancies were available.

5. Pursuant to the said order, the respondents had made an offer of appointment vide letter dated 13th/15th April, 1998 to the petitioner for regular appointment to the post of Attendant, subject to the terms and conditions stated therein. The petitioner was required to accept the terms and conditions of the offer on or before 30th April, 1998. The petitioner accepted the said offer of appointment and became a regular appointee to the post of Attendant.

6. Six-seven years thereafter, the petitioner made a representation dated 6th February, 2004 claiming and seeking fixation of seniority in the grade of Attendant with effect from 15th December, 1989.

7. By the Memorandum dated 21st April, 2005, the petitioner was informed that service on muster roll prior to 15th December, 1989 cannot be clubbed with the period of daily wage service subsequently rendered by him as daily wage Attendant. Learned counsel for the petitioner submits that a reading of this letter/memorandum dated 21st April, 2005 would show that the petitioner was treated as a regular Attendant with effect from 15th December, 1989 as he was entitled

to benefit of daily wage service with effect from 15th December, 1989. The petitioner is misreading this memorandum. The petitioner has not placed on record copy of the representation dated 6th February, 2004 in response to which the memorandum/letter dated 21st April, 2005 was written. From the memorandum/letter dated 21st April, 2005, it is clear that the petitioner was appointed as an Attendant with effect from 12th May, 1998 by giving him benefit of daily wage service as a Peon/Attendant i.e. the petitioner was earlier a daily wager. The respondent did not accept and acknowledge that the petitioner was appointed as an Attendant on regular basis with effect from 15th December, 1989.

8. The petitioner filed OA No. 4400/2012, fourteen years after the offer of appointment dated 13th/15th April, 1998 was made and long after the petitioner was given appointment as an Attendant on regular basis with effect from 23rd April, 1998. The delay and laches is apparent. The prayer made was barred by limitation. In case, the prayer made is now accepted, there will be several others, more than hundred in number, who would be entitled to same/identical relief.

9. The offer of regularisation was made and given to the petitioner prior to the pronouncement of the judgment of the Constitution Bench in *Secretary State of Karnataka and Others v. Umadevi (3) and Others*, (2006) 4 SCC 1.

10. We are also in agreement with the Tribunal that in the present case the petitioner with open eyes had accepted and agreed to the consent order dated 30th May, 1997 by which Writ Petition No. 1995/1993 was disposed of. The petitioner was aware and conscious that the regularisation will be effective from a future date, when the order dated 30th May, 1997 was passed. The petitioner cannot now raise stale and old claims, which he had agreed to forego and were settled when the consent order dated 30th May, 1997 was passed.

11. The writ petition has no merit and is dismissed. No costs.