

(2025) 12 CAT CK 1681

**In the Central Administrative Tribunal, Central Administrative Tribunal
Cuttack Bench, Cuttack**

Case No : Original Application No. 260, 00714 Of 2019

Mangu Singh

APPELLANT

Vs

Union Of India & Ors

RESPONDENT

Date of Decision : 03-12-2025

Acts Referred:

Constitution Of India, 1950 — Article 14, 227

Citation : (2025) 12 CAT CK 1681

Hon'ble Judges : Sudhi Ranjan Mishra, Member (J); Pramod Kumar Das, Member (A)

Bench : Division Bench

Advocate : A. Swain, K.C. Kanungo

Final Decision : Dismissed

Judgement

Sudhi Ranjan Mishra, Member (J)

1. The applicant has filed the present O.A. seeking the following relief :

"The Hon'ble Tribunal may graciously be pleased to direct the respondents to extend Temporary Status in favour of the applicant and regularize his service taking into consideration of his services in retrospective effect after quashing the order dated 16.03.2019 vide -A/14."

2. It is, however, absolutely essential that all basic and primary facts which would establish the existence of a cause of action or defence must be stated in the pleading by the party. According to the dictionary meaning, 'material' means 'fundamental', 'vital', 'basic', 'cardinal', 'central', 'crucial', 'decisive', 'essential', 'pivotal', indispensable', 'elementary' or 'primary'. In absence of all material facts the petition is liable to be dismissed is the ratio/stare desis in the case of Virender Nath Gautam vs Satpal Singh & Ors, AIR 2007 SC 581. In the case in hand, according to applicant he had been continuing to discharge the duty since 1995 but till which date he continued is completely silent in the pleadings of both

the parties. However, fact remains that the applicant along with others approached before the Hon'ble High Court of Orissa in W.P.(C) No.20724/2009 which was disposed of on 05.02.2010 in the foregoing observations:

"Heard learned counsel for the petitioner.

The petitioners claimed to be Casual Labourers under the establishment of Bharat Sanchar Nigam Ltd., Orissa Circle, Bhubaneswar. Their grievance in this Writ Petition is that though they are continuing as Casual labourers for quite few years, no action has been taken to regularize their services. But then law as laid down by the Supreme Court in the case of State of Karnataka and others Vs. Umadevi and others reported in AIR 2006 SC 1806 this Court cannot direct the management to regularize the workmen.

2. In view of the aforesaid clear position of law, this Court disposes of this Writ Petition with observation that it is left upon the management of Bharat Sanchar Nigam Ltd., Orissa Circle, Bhubaneswar to consider the case of the petitioners who are working as Casual labourers for regularization taking into consideration their long stretch of service, as expeditiously as possible."

3. After a lapse of 30 years, the applicant rose from slumber and filed O.A No515/2018 before this bench seeking direction to the respondents for consideration of his case for regularization, the said OA was disposed of on 04.12.2018 in the foregoing terms:

"It is seen that the applicant has not approached the authority before approaching this Tribunal. Hence, without expressing any opinion on merit of this case including the issue of delay, the O.A. is disposed of at this stage with liberty to the applicant to file a comprehensive application indicating the grounds taken in this O.A. and enclosing the copies of the judgments/citations on which the applicant has relied upon to Respondent No.4/competent authority within 15 days. On receipt of such application the Respondent No.4/competent authority shall consider the same as per the rules and guidelines of the Government and pass an appropriate speaking and reasoned order copy of which is to be communicated to the applicant within three months from the date of receipt of such representation. The O.A. is disposed accordingly. No costs."

4. Respondents rejected their claim and, thereafter, the applicant filed this OA praying for direction to the Respondents to extend temporary status in favour of the applicant and regularize his service taking into consideration of his services in retrospective effect after quashing the order dated 16.03.2019(A/14) since similarly situated casual labour has been regularized by the Respondents.

5. We may note that the Hon'ble Apex court in the case of M. Siddiq (Ram Janmabhumi Temple-5 J.) v. Suresh Das, (2020) 1 SCC 1, held that the mere fact that the effect of the injury caused has continued, is not sufficient to constitute it as a continuing wrong. For instance, when the wrong is complete as a result of the act or omission which is complained of, no continuing wrong arises

even though the effect or damage that is sustained may enure in the future. What makes a wrong, a wrong of a continuing nature is the breach of a duty which has not ceased but which continues to subsist. Hence, this submission of the applicant is held not good. Further in the case of Balkrishna Savalram Pujari v. Shree Dnyaneshwar Maharaj Sansthan, AIR 1959 SC 798 it has been held that if wrongful act causes an injury which is complete, there is no continuing wrong even though the damage resulting from the act may continue.

6. In the case in hand, the prayer for regularization was rejected by the Hon'ble High Court of Orissa in WP (C) No.20368 of 2009 dated 05.02.2010 which order was set at rest. The applicant filed OA No.515/2018 and the same was disposed of on 04.12.2018 with direction to the respondents to dispose of the representation dated 17.12.2018. The respondents in compliance of the order of this Bench considered the representation and rejected the same vide order dated 16.03.2019.

7. In the case of Union of India and another vs Jahangir Byramji Jeejeebhoy, in Civil Appeal No.....of 2024 (arising out of S.L.P. (Civil) No. 21096 of 2019) dated April 03, 2024 held as under:

"27. We are of the view that the question of limitation is not merely a technical consideration. The rules of limitation are based on the principles of sound public policy and principles of equity. We should not keep the 'Sword of Damocles' hanging over the head of the respondent for indefinite period of time to be determined at the whims and fancies of the appellants.

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34. In view of the aforesaid, we have reached to the conclusion that the High Court committed no error much less any error of law in passing the impugned order. Even otherwise, the High Court was exercising its supervisory jurisdiction under Article 227 of the Constitution of India.

35. In a plethora of decisions of this Court, it has been said that delay should not be excused as a matter of generosity. Rendering substantial justice is not to cause prejudice to the opposite party. The appellants have failed to prove that they were reasonably diligent in prosecuting the matter and this vital test for condoning the delay is not satisfied in this case."

8. The Hon'ble Apex Court after referring to C. Jacob [C. Jacob v. Director of Geology and Mining. (2008) 10 SCC 115, in the case of Union of India v. M.K. Sarkar, held as follows: (SCC p. 66. paras 14-16).

"14. The order of the Tribunal allowing the first application of respondent without examining the merits, and directing the appellants to consider his representation has given rise to unnecessary litigation and avoidable complications.

15. When a belated representation in regard to a 'stale' or 'dead' issue/dispute is considered and decided, in compliance with a direction by the court/tribunal to

do so, the date of such decision cannot be considered as furnishing a fresh cause of action for reviving the 'dead' issue or time- barred dispute. The issue of limitation or delay and laches should be considered with reference to the original cause of action and not with reference to the date on which an order is passed in compliance with a court's direction. Neither a court's direction to consider a representation issued without examining the merits, nor a decision given in compliance with such direction, will extend the limitation, or erase the delay and laches.

16 A court or tribunal, before directing 'consideration' of a claim or representation should examine whether the claim or representation is with reference to a 'live' issue or whether it is with reference to a 'dead' or 'stale' issue. If it is with reference to a 'dead' or 'stale' issue or dispute, the court/tribunal should put an end to the matter and should not direct consideration or reconsideration. If the court or tribunal deciding to direct 'consideration' without itself examining the merits, it should make it clear that such consideration will be without prejudice to any contention relating to limitation or delay and laches. Even if the court does not expressly say so, that would be the legal position and effect"

9. In Karnataka Power Corpn. Ltd. v. K. Thangappan, 2006 SCC (L&S), 791, the Hon'ble Apex Court took note of the factual position and laid down that when nearly for two decades the respondent workmen therein had remained silent mere making of representations could not justify a belated approach.

10. In State of T.N. v. Seshachalam [(2007) 10 SCC 137 the Hon'ble Apex Court while testing the equality clause on the bedrock of delay and laches pertaining to grant of service benefit, rules as under:

"16. ... filing of representations alone would not save the period of limitation. Delay or laches is a relevant factor for a court of law to determine the question as to whether the claim made by an applicant deserves consideration. Delay and/or laches on the part of a government servant may deprive him of the benefit which had been given to others. Article 14 of the Constitution of India would not, in a situation of that nature, be attracted as it is well known that law leans in favour of those who are alert and vigilant."

11. It is noted that equality has to be claimed at the right juncture and not after expiry of decades. Not for nothing, has it been said that everything may stop but not the time for all are in a way slaves of time. The grievance for conferment of temporary status of regularization cannot be given a new lease of life at any point of time. Remaining oblivious to the factum of delay and laches and granting relief is contrary to all settled principles and even would not remotely attract the concept of discretion. We may hasten to add that the same may not be applicable in all circumstances where each and every right of a person is infringed.

12. It is also noted that similar cases filed by similarly situated persons (OA Nos.

344/2018, 419/2019 & 676/2024 and this Bench also dismissed the OAs on delay and laches.

In view of the above position and under the facts and circumstances of the case, the O.A. stands dismissed. Pending M.As if any, is accordingly dismissed. No costs.