

**IN THE HIGH COURT OF JHARKHAND AT RANCHI**

**W.P.(S) No. 597 of 2016**

Uma Shankar Prasad

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Versus

1.The State of Jharkhand

2.Union of India , represented through the General Manager, East  
Central Railway, Hajipur, Bihar

3.The Divisional Railway Manager, ECR, Dhanbad Division, Dhanbad

4.The Senior Divisional Personnel Officer, ECR, Dhanbad Division, Dhanbad

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**CORAM: HON'BLE MR. JUSTICE APARESH KUMAR SINGH**

**HON'BLE MRS. JUSTICE ANUBHA RAWAT CHOUDHARY**

Through Video Conferencing

For the Petitioner : Mr. Md. Shahbuddin, Advocate

For the Respondent : Mr. Ashutosh Anand, A.A.G-III

08/20.07.2020 Learned Counsel Mr. Md. Shahbuddin for the petitioner and Mr. Ashutosh Anand, learned Additional Advocate General No. III for the State are present through Video Conferencing.

2. Aggrieved by the dismissal of O.A. No. 233 of 2010 and M.A. No. 125 of 2010 vide order dated 06.12.2010, passed by the learned Central Administrative Tribunal, Patna, Circuit Bench at Ranchi (Annexure-6), applicant/ petitioner has approached this Court in the present writ petition in the year 2016. As the pleadings on record reveal, applicant's father was a Railway employee who had retired from Pathardih on 31.10.1975. On applicant's request, he was engaged as a casual labour purely on temporary basis. He worked between 13.07.1977 to 16.10.1977 but stopped working thereafter due to illness. He made request on 03.01.1995 for his re-engagement (Annexure-2). Prior to that he moved the learned CAT in O.A. No. 101 of 1991, which was disposed of vide order dated 06.02.1992 with an observation that respondent should consider his claim sympathetically for engagement in hot weather season as casual labour (Annexure-3). However, his grievance persisted and again he approached the learned CAT in O.A. No. 141 of 2001, which was disposed of on 15.07.2004 directing the Railways to consider his case on humanitarian ground (Annexure-4). Petitioner's representation was rejected by the order dated 24.09.2004, impugned in the instant OA, on the ground that practice of engagement of Hot Weather Season Staff has been discontinued (Annexure-5). This order was challenged after 6 years in the instant O.A.

No. 233 of 2010 with some explanation for the delay through M.A. No. 125 of 2010. Learned CAT was not satisfied with the explanation and dismissed the O.A. vide order dated 06.12.2010 holding as under:

*“The impugned order was passed on 24.09.2004. Accordingly, it is hopelessly barred by limitation. In the MA, two grounds have been taken for condonation of delay. Firstly that the applicant had been filing representations before the authorities till date and secondly, that since 2005 had been ill and was to be admitted in hospitals.*

*The applicant filed a blood report of the year 2008, a prescription dated 13.03.2009, a registration ticket of RMCH dated 14.07.2010 and a report dated 04.06.2010. The reports thus do not show that he was ill prior to the year 2008. Successively representations also do not explained the period of limitation.*

*As the impugned order was passed on 24.09.2004, the OA hence was to be filed within one year from that order. But there is no satisfactory material to show why he did not filed the OA within the period of one year from the passing of the order. The delay hence cannot be condoned.*

*The OA thus, is dismissed as being barred by limitation.”*

The applicant has approached this Court after a delay of 6 years in the present writ petition.

3. Learned counsel for the petitioner has sought to explain that the delay in approaching the learned CAT was on the ground of illness. No plausible explanation for the delay in approaching this Court has been made out in the writ petition. As such, on the ground of delay itself, this Court is not inclined to interfere in the matter. Apart from the gross delay in approaching the learned CAT, on merits also, it is apparent that the applicant / petitioner has no legal right to be taken in service, moreover, when the practice of engagement as Hot Weather Season Staff has also been discontinued. The instant writ petition is accordingly dismissed. I.A. No. 4903 of 2019 for ignoring the defect is allowed.

**(Aparesh Kumar Singh, J.)**

**(Anubha Rawat Choudhary, J.)**