

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

92

O.A. NO.2873 OF 2002

New Delhi, this the 9th day of March, 2004

HON'BLE SHRI R.K. UPADHYAYA, ADMINISTRATIVE MEMBER

Chhattarpal Singh,
S/o Shri Gyan Singh,
R/o Vill. Bhanpur Khalsa,
Post Gajraula, Teh.Dhanora,
Post Gajraula, Teh.Dhanora,
DISTT : J.P.NAGAR (Amroha) U.P.

.....Applicant.

(By Advocate : Shri R.K. Shukla)

Versus

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi-110001.
2. The Divisional Railway Manager,
DRM Office, Moradabad Division,
Northern Railway,
Moradabad (U.P.).

.....Respondents

(By Advocate : Shri Rajinder Khatter)

ORDER (ORAL)

This Original Application under Section 19 of the Administrative Tribunals Act, 1985 has been filed by the applicant seeking a direction to the respondents for re-engagement of the applicant.

2. It is stated by the applicant that he worked on casual basis w.e.f. 14.3.1983 to 14.9.1983, i.e., 177 days under P.W.I. Amroha. as per certificate dated 13.3.1986 (Annexure A/2 -). He also worked as casual Gangman under PWI, Gajraula from 15.10.1984 to 14.11.1984 for 13 days as per certificate dated 11.8.1987 (Annexure A/2 -). The learned counsel states that because of this service as indicated by the applicant, it is clear that his name was incorporated in the Live Casual Labour Register

Amroha



(LCLR for short). In the circumstances, the deletion of his name from the LCLR was never intimated to the applicant as indicated by the respondents vide their letter dated 13.9.2001 (Annexure A/1) addressed to Shri Ram Shanker Kaushik, Member Parliament (Rajya Sabha). This impugned letter dated 13.9.2001 states that the applicant's name does not find mention in the live register of PWI, Amroha and Gajraula and, therefore, his re-engagement cannot be considered. According to the learned counsel of the applicant, the respondents should have accorded the temporary status to the applicant and offered him employment in the Railways. Since they have not done so, the respondents be directed to re-engage the applicant and regularise his services.

3. The respondents have filed their reply and opposed the prayer of the applicant. According to the respondents, in term of printed serial No.7716-A, no fresh casual labourers were to be recruited without obtaining prior approval of the General Manager. Thus engagement of casual labourer after 03.01.1981 by an unauthorised officials is bad in law ab-initio. It is further pointed out by the respondents that in terms of Northern Railway P.S. No.9191 and 9195, casual labourers, who had been discharged on completion of work and for want of further productive work required to submit written representation with adequate documentary proof of their previous working period before 31.3.87 for the purpose of inclusion their name

(11/3/27)



in the LCI R. It is the case of the respondents that the applicant did not himself avail of this opportunity and has not furnished any documentary proof having previously worked as casual labour. No representation of the applicant have also been received by the respondents. The respondents have further pointed out that the present Original Application filed after 23 years deserves to be dismissed as barred by limitation. Even no records beyond 5 years relating to labour pay sheets are required to be preserved. Therefore, the contention now raised after 23 years cannot be verified. The learned counsel of the respondents pointed out that the impugned letter dated 13.9.2001 (Annexure A/1) is a letter addressed to the Member of Parliament not to the applicant. Even if it is considered giving a cause of action to the applicant even then the OA filed on 30.10.2002 was beyond the period of limitation. Relying on several decisions of the Hon'ble Supreme Court including the case of R.C. Samanta and Others Vs. Union of India, 1993 (3) SC 418, it is stated that delay deprives a person of the remedies available in law. Learned counsel pointed out that the applicant has awoken only after two decades. Even if it is accepted that he might have made some representations in the past, but approaching this Tribunal at this stage is highly belated. Therefore, this Tribunal should not entertain this Original Application on this preliminary ground alone.

Amrinder


Relying on the Full Bench decision of this Tribunal dated 10.5.2000 in the case of Mahavir Vs. Union of India and Others and connected matters, ATJ 2000 (3) 1, it was stated that there is no continuous cause of action in the case of dis-engaged casual labourers.

4. Learned counsel of the applicant in rejoinder stated that he was not interested in getting his name included in the LCLR. However, he stated that the applicant had earlier worked in the respondent organisation and the certificates dated 13.3.1986 (Annexure A/2 -) and 11.8.1987 (Annexure A/2 -) indicated that the applicant was actually working for the department. Therefore, the respondents should be directed to re-engage the applicant.

5. The arguments of both the parties have been heard carefully and the material available on record has been perused.

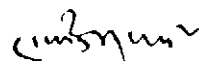
6. It is a fact that the applicant has not approached for his relief in time. If the applicant made a representation only on 5.11.2001 (Annexure A/3), it is certainly highly belated representation. The person, who slept over his right of being dis-engaged some time in the year 1983 or 1984, should have contested his claim immediately thereafter. It is also a fact that the applicant has never been granted temporary status even if the applicant was entitled to grant of temporary status, such claim

2/3/2002

(5) 

should have been made in time and orders obtained thereon. Merely, because the applicant worked for the department for few days in the years 1983 and 1984, it will not automatically entitle him to become of regular Govt. servant with the respondent - Railways. As a matter of fact, there is no violation of any rules on the subject by the respondents.

7. In the circumstances, there is no justification to allow the relief as claimed by the applicant in this OA. Therefore, this OA is dismissed not only on the ground of being barred by limitation but also on account of having no merits. No costs.



(R.K. UPADHYAYA)
ADMINISTRATIVE MEMBER

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