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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 275/2002

New Delhi this the 29th day of August, 2002.

Hon'ble Mr. Shanker Raju, Member (judl.)

Gurcharan Singh,
S/o Shri Karnal Singh,
R/o Distt. Mansa,
Teh. Budlada, P.O. Bretha,
Village Sirsiwala (Punjab)

-Applicant

(By Advocate Shri P.S. Mahendru)

-Versus-

1. Union of India through
the General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

-Respondents

(By Advocate Shri B.S. Jain)

O R D E R

Through this OA applicant has sought his re-engagement as casual labour and regularisation as Class IV employee as per his seniority as well as inclusion of his name in the Live Casual Labour Register (LCLR) if already not placed.

2. Applicant was engaged as a casual labour khalasi during the period December, 1984 to February, 1985 for a total period of 79 days. The name of the applicant was entered in the seniority register at serial No.112. He was disengaged and thereafter on being aware of the few juniors who had been later on engaged Viz. Gulab Singh, Labh Singh, Kaka Singh and Banta Singh by issuing call letters to them in various units of Delhi Division of Northern Railway applicant made representations which have not been responded to by the respondents, giving rise to the present OA.

3. Learned counsel for the applicant Sh. P.S. Mahendru contended that as per Railway Board's letter dated 22.10.1980 if any person had worked as casual labour in the past and is presently out of the employment his record should be checked and he be afforded opportunity in the next recruitment for casual labour work in preference to the juniors. Further placing reliance on Railway Board's circular dated 22.8.87 it is contended that the present seniority unit for casual labour for open lines for the purpose of regularisation is permanent way inspector who has certified the working of the applicant for 79 days. Despite these instructions name of the applicant has not been placed in the LCLR with the result applicant has not been assigned any work and was not communicated and sent letters by the respondents. It is further stated that as per Railway Board's Circular dated 15.4.86 those casual labours who have been discharged at any time after 1.1.81 should continue to be borne on the LCLR and in case their names are deleted they should be restored.

4. It is stated that the applicant has been discriminated arbitrarily in violation of Articles 14 and 16 of the Constitution of India as the juniors who have lesser number of days in service have been retained and are re-engaged in violation of the Board's circular. Further placing reliance on a decision of the coordinate Bench in OA-307/2001 in Major Singh v. Union of India it is contended that for the same seniority unit directions have been issued to the respondents to examine the grievance of the applicant through a representation to be made by the applicant by passing a detailed and speaking order. It is further contended that complying with the directions the applicants therein have been re-engaged. It is also stated that the right of inclusion of name in LCLR is automatic and the

record of the seniority unit is never destroyed and it is also stated that as and when a junior is called it gives rise to a fresh cause of action. As the name of the applicant was entered at serial No.112 of his unit and the LCLR registers are maintained by the office of DRM. The seniority unit is Inspectorwise. As the applicant was discharged in 1985 his name should have been brought on LCLR but non inclusion of his name has not been intimated to him.

5. On the other hand, respondents' counsel Sh.B.S. Jain denied the contentions and disputed the certificate issued to a casual labour, i.e., the applicant by the PWI and stated that as per the circular dated 28.8.97 casual cards issued to a casual labour contains full details regarding name of the employee, father's name, date of birth, educational qualifications, date of engagement, mark of identification, nature of job and reason for retrenchment etc. As regards the certificate the applicant having worked in the year 1984-85 only for 79 days it is not possible to verify the authenticity of the same. As the certificate lacks all the particulars the same cannot be taken into consideration. It is further stated that LCLR is to be maintained at DRM Delhi and not by PWI at Jakhal. Placing reliance on a Full Bench decision in Mahabir & Ors. v. U.O.I. & Ors., 2000 (3) ATJ 1 which has been upheld recently by the Delhi High Court and also to a decision of the coordinate Bench in OA-1837/99 - Preet Kamal v. Union of India it is contended that law of limitation applies to a casual labour also and the cause of action had arisen to the applicant immediately on his disengagement. Approaching this court after a period of 15 years when the applicant had slept over his right without any application for condonation of delay is not maintainable as per the ~~short~~ provisions of Section 21 of the Administrative Tribunals Act, 1985 as well as

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decisions of the Apex Court in Rattam Chandra Sammanta & Ors. v. Union of India, JT 1993 (3) SC 418 and Udhamp Singh Kamal v. Union of India, 2000 SCC (L&S) 53.

6. On merits it is stated that the applicant's name does not figure in the LCLR and there is therefore no question of considering his case for engagement. Only those persons who had worked as Project casual labour before 1.1.81 and were discharged for want of work and who have submitted their representations with ample proof of their engagement are to be kept in LCLR. This is also available to open line casual labours who were discharged after 1.1.81 and their names have to be continued in LCLR. As the applicant himself has abandoned his service he is not entitled for engagement and further regularisation.

7. Applicant in his rejoinder has re-iterated his pleas taken in the OA.

8. I have carefully considered the rival contentions of the parties and perused the material on record. The contention of the applicant resorting to claim benefit of the decision in Major Singh's case cannot be countenanced in view of the decision of the High Court upholding the decision of the Full Bench in Mahabir's case (supra). The OA is clearly barred by delay, laches and is not maintainable under Section 21 of the Administrative Tribunals Act, 1985, as filed beyond the stipulated period of limitation. Applicant who was discharged in 1985 has not approached this court despite cause of action had accrued to him instantly. As the limitation is to be applied to a casual labour also in absence of any application for condonation of delay this court has no jurisdiction to condone the delay suo moto in view of the decision of the Apex Court in Udhamp Singh's case (supra). In this view of the matter as the present OA is filed after about 17 years from

date of disengagement of the applicant the same is not maintainable.

9. Moreover on ~~merits~~ as well the certificate produced by the applicant though is not in proper format where the applicant is shown to have ~~been~~ worked for 79 days without any further details as envisaged in the casual labour card. However, taking cognizance of this certificate after the delay of about 17 years it would not be possible for the respondents to verify the same as the life of the paid vouchers etc. is only five years.

10. Plea of the applicant as to discrimination and engagement of his juniors is concerned, the same cannot be countenanced in view of the fact that those ex casual labours were figuring in the LCLR whereas the applicant was not registered in the LCLR and for short-listing only those who were registered in the LCLR have been called for screening and further engagement. Applicant has not agitated his grievance in the LCLR at the appropriate time. At this belated stage the same cannot be entertained.

11. In the result the OA is found bereft of merit and is accordingly dismissed, but without any order as to costs.

S. Raju

(Shanker Raju)
Member(J)