

Central Adminisrative Tribunal  
Principal Bench

O.A.No.1118/2002

Hon'ble Shri Shanker Raju, Member(J)

New Delhi, this the 2nd day of May, 2003

Abdul Sattar  
s/o Shri Faiz Ali  
Ex. Casual Labour  
Under Section Engineer/Telecom (Works)  
Microwave, Northern Railway  
Najibabad.

r/o Abdul Sattar  
E-80, Daula Kuan  
New Delhi - 10. .... Applicant

(By Advocate: None)

Vs.

1. Union of India through  
The General Manager  
Northern Railway  
Baroda House  
New Delhi.
2. The Divisional Railway Manager  
Northern Railway  
Moradabad.
3. The Divisional Railway Manager  
Northern Railway  
Allahabad. .... Respondents

(By Advocate: Shri R.L.Dhawan)

O R D E R

By Shri Shanker Raju, M(J):

Through this OA, applicant has prayed for the following reliefs:

- "i) direct/command the Respondents to consider the applicant's engagement/permanent absorption on a Group 'D' post on the basis of his priority, so accruing from entry of his name at S.No.48 of the Register, which is far higher than the other similar situate persons, particularly his juniors.
- ii) order/command the Respondents to deem the applicant as having been regularised from the date his juniors were appointed with all consequential benefits, including payment of salaries and allowance with 24% interest.

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Vb

iii) any other relief deemed fit and proper by this Hon'ble Tribunal, may also be granted with heavy costs in favour of the applicant for dragging him to repeated litigation, in the interest of justice."

2. Earlier, applicant has approached this Court in OA 1044/99 contending that as he had working on casual basis with respondents from 2.11.1971 to 17.10.1973 and was also re-engaged for a period of 178 days during the years 1979-80 under SSE(Works), Najibabad, Moradabad Division and also by PWI/N.Rly, Bulandshahr from 15.1.1981 to 15.2.1981. He has prayed for a direction for re-engagement in order of seniority and to place his name in the Live Casual Labour Register (hereinafter called as "LCLR").

3. This Court by an order dated 14.2.2001, taking into consideration the decision of the Full Bench in Mahavir v. Union of India, where the reference as to limitation has been answered by observing that placement of name of Casual Labour in LCLR does not give rise to continuous cause of action, OA was dismissed as time barred.

4. Admittedly, neither any review nor an appeal has been filed by applicant.

5. As none appears for applicant, OA is proceeded under Rule 15 of the Central Administrative Tribunal (Procedure) Rules, 1987.

6. In this OA, it is contended that as the rights of the parties and the matter has not been finally adjudicated in the earlier OA, plea of resjudicata would not apply and as the respondents

have <sup>4</sup> played fraud on the Court and suppressed the fact that their own document dated 3.7.1998 shows name of applicant at S1. No.48 of the LCLR, his name is to be considered in priority, having regard to the seniority in the LCLR for absorption of Group 'D' posts.

7. On the other hand, respondents' counsel, Shri R.L.Dhawan took preliminary objection regarding doctrine of resjudicata contending that once the issue has been conclusively dealt with between the parties, it <sup>is</sup> not open for the applicant to file a fresh OA and as he has not exhausted his remedy in review or appeal, OA is not maintainable.

8. I have carefully considered the pleadings on record in OA as well as contentions putforth by the counsel for respondents.

9. In order to attract the doctrine of resjudicata, it is to be established that in earlier case the matter was identical and the right of the parties have been conclusively dealt with, and attained finality.

10. In the earlier OA, applicant has come for the same relief of regularisation on the strength of having figured his name at S1. No.48 of the LCLR. As the Court has found, the issue not maintainable on account of limitation, the OA was dismissed. In the present OA, the applicant has prayed for the same relief.

11. As in the earlier case even on limitation, rights of the parties have been conclusively determined, remedy by way of fresh OA, does not lie. However, it was open for the applicant to have sought review of the order or to even have challenged the order in an appellate forum as per law.

12. In the result, for the foregoing reasons, the OA is not maintainable in view of the doctrine of res judicata, the same is dismissed. However, this shall not preclude the applicant to take appropriate proceedings in accordance with law. No costs.

  
(Shanker Raju)  
Member (J)

/rao/