

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.1971/2002

New Delhi this, the 21st day of May, 2004

Hon'ble Shri S.K.Naik, Member (A)

Shri Bhanu Pratap
S/O Shri Chandra Bali,
Ex.Casual Labour,
Under P.W.I/PQRS/Nizamuddin,
New Delhi and resident of
QME 45/14, Tuglakabad Rly Station
Badarpur, New Delhi

.. Applicant

(Shri B.S. Mainee, Advocate)

VERSUS

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi
2. Permanent Way Inspector
Northern Railway, Ambala
3. Inspector of Works
Northern Railway
Nizamuddin

.. Respondents

(Shri Rajeev Bansal, Advocate)

ORDER

Applicant, Shri Bhanu Pratap claims to have worked as casual labourer with the respondents-departments for a period of 1228 days between 6.9.1982 to 14.12.1986. In accordance with the Circular of the Railway Board dated 20.8.1987, the applicant was entitled to have ^{been} placed on Live Casual Labour Register (for short LCLR). His representation to this effect not having met ^{with} any response from the respondents, this application has been filed seeking a direction to the respondents to reengage his service after placing his name on the LCLR.

2. Before consideration of the OA on its merits. Learned counsel for the respondents has raised a

Issue

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preliminary objection that the OA is barred by limitation as the applicant was engaged in the year 1986 whereas the present OA has been filed on 24.7.2002, after lapse of more than 16 years. The counsel contends that a Full Bench judgement of this Tribunal in **Mahabir and Ors. Vs. Union of India and Ors** (ATJ 2000 (3) 1) has held that there is no continuous cause of action in a case of this nature and the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985 will be applicable.

3. Shri B.S.Mainee, learned counsel for the applicant has strenuously argued that the judgement in **Mahabir and Ors's case** (supra) would not be applicable to the present case as prior to the judgement of the Full Bench, there was a ruling by the High Court of Delhi in **Shishpal Singh and Ors Vs. UOI 2000(1) ATJ 153** vide which it had been held that the cause of action arising in such matter is a continuous one. This judgement of the Delhi High Court had not been brought to the notice of the Full Bench of the Tribunal while deciding the matter in **Mahabir and Ors's case** (supra) and therefore, learned counsel contends that the decision rendered by the Full Bench is per incuriam and the judgment of the High Court of Delhi will therefore, be binding on this Tribunal. In support of his contention he has referred to ^{the judgement in the case of} **C.R.Rangadhamaiah and Ors. Vs. Chairman-Railway Board and Ors (1994 (1) ATJ 305)**.

Counsel

4. Learned ^{for} the respondents Shri Rajeev Bansel has,
Bansel

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however, countered the plea advanced by Shri B.S. Mainee, by stating that the Full Bench of the Delhi High Court in the case of Jagdish Prasad Vs. Union of India and Ors (CWP 450 of 2001) decided on 7.4.2002 reported in 98 (2002) Delhi Law Times 837 (FB), after discussing the judgement of the Full Bench in Mahabir and Ors's case (supra) as also the judgement of the High Court in Shishpal Singh case's (supra) and further relying on decision of the Apex Court in Rattan Chandra Samanta and Ors Vs. The Union of India and Ors (JT 1993 (3)SC 418) held "that in the case of this nature, the cause of action would not be continuous one" and overruled the decision of the High Court in Shishpal Singh's case (supra). The question of judgement being per incuriam in the circumstances, therefore, does not arise.

5. Learned counsel has further contended that in a batch of Writ Petitions filed by the petitioners against the order of the Tribunal, including the judgement of the Full Bench in Mahabir and Ors's case (supra) in which the learned counsel for the applicant was also the counsel before the High Court, the Hon'ble High Court vide its order dated 31.5.2002 held as Under:

" We do not agree with the contention of the learned counsel for the casual labourers that the Full Bench judgement of the learned Tribunal was wrong in observing that cause of action arose at the time of their discharge".

Further relying on the Full Bench judgement of the High Court in Jagdish Prasad's case (supra) held "we, therefore, do not find any distinguishing circumstances in

find

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This case. We are also bound by the judgement of the Full Bench. We further hold that the impugned judgement of the Full Bench of the learned Tribunal, wherein some view has been taken as the Full Bench of this Court, is correct in law. In fact the said Full Bench of the learned Tribunal has been referred to in the Full Bench judgement of this Court dated 7.5.2002 passed in CWP 450/2001.^u Learned counsel therefore, contends that seen from any angle, the application has to be held to be liable to be miserably barred ^{by time} and should be dismissed on this ground alone.

7. I have considered the submissions made by the learned counsel on either side. In view of the judgement of the Full Bench of this Tribunal in Mahabir and Ors's case (supra) which has further been upheld by the Delhi High Court vide its order dated 31.5.2002 in the case of Civil Writ Petitions 6513/2003 and others and also having regard to the judgement of Full Bench of the Delhi High Court in the case of Jagdish Prasad's case (supra) in which the judgement rendered by the High Court in the case of Shishpal Singh's case (supra) has been over ruled, I have no doubt in my mind that the cause of action in the present case arose during the years 1986-1987. Provisions of Section 21 of the Administrative Tribunals Act, 1985 would, therefore, be fully applicable. In the absence of any plausible ~~explanation~~ ^{for the} delay, preliminary objection raised by the respondents has to be upheld.

8. Resultantly, OA must fail~~s~~ and is accordingly dismissed. No order as to costs.

S.K. Naik
(S.K.Naik)
Member (A)