

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

RA NO. 198/2001

IN

O.A. NO.115/2001

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New Delhi, this the 04th day of October, 2001

HON'BLE SHRI S.A.T. RIZVI, MEMBER (A)

Union of India through

1. The General Manager,
Northern Railway,
Baroda House
2. The Chief Administrative Officer(C),
Northern Railway, Kashmere Gate,
Delhi
3. The Dy Chief Personnel Officer, (C)
Northern Railway,
Kashmere Gate, Delhi .. Review applicants
(By Advocate: Shri B.S. Jain)

Versus

Smt. Mithula Devi,
D/o Shri Gadchu,
R/o Sukha Gaderman Under
D.E. RT, Northern Railway Officer,
Meerut City U.P. Respondent
(By Advocate : Shri T.D. Yadav)

O R D E R

Heard the learned counsel on either side at length. The material placed on the file has² also been perused.

2. The present RA seeks recall of order dated 12th January, 2001, passed by this Tribunal in OA No.115/2001 by which the OA was disposed of at the admission stage itself even without issuing notices with a direction to the respondents in that OA to consider the matter in accordance with the Railway Board's Circular of 28th August, 1987 and on finding the applicant in the OA eligible, incorporate her name in the live casual labour register (LCLR). The

applicant in the OA had worked as a casual labour during 1976-77 and thereafter again from June 1977 to May 1982. 9

3. The learned counsel appearing on behalf of the review applicants relies mainly on the judgement rendered by the Full Bench of this Tribunal on 10th May, 2000 reported in 2000 (3) ATJ p.1. The relevant paragraph taken from the aforesaid judgement of the Full Bench on which reliance has been placed, has been reproduced by the review applicants in the RA and the same is reproduced below for the sake of convenience.

"11. Aforesaid circular, in our judgement, confers a right on casual labour to be placed on the live casual labour register. The said right arises the moment the casual labour is discharged. The said right is conferred on such casual labours who have been discharged after 1.1.1981. Hence, the moment a casual labour is discharged, a right to be placed on the register arises. To give an example, in respect of casual labours who have been discharged say, on 1.1.1982, the right to be placed on the register arises as on that date. The casual labour, no doubt, has a right to be continued on the live casual labour register indefinitely. However, before that of being continued on the register indefinitely can arise, the right to be placed on the register in the first instance has to be asserted. The cause of action for asserting the said right arises on 1.1.1982 when the casual labour is discharged. This is amply clear from the aforesaid recital to be found in the circular. Circular no doubt casts an obligation on the part of the administration to maintain the registers continuously. That, however, does not mean that the same confers a continuing right on the part of the casual labour to be placed on the register in the first instance. If the right which has accrued in his favour on 1.1.1982 is denied to him, he has to take recourse to approach this Tribunal within the time prescribed by Section 21 of the Administrative Tribunal's Act 1985. He cannot wait for time immemorial and approach the Tribunal at leisure and, at his whim and

fancies, may be years later and assert his right of being placed on the register." (10)

4. By the same order the Full Bench also held as follows.

"18. In the light of the foregoing discussion we answer the aforesaid issue(s) as under:-

Provisions of the relevant Railway Board's circular dated 25.4.1986 followed by the Circular dated 28.8.1987 issued by General Manager, Northern Railway for placing the names of casual labour on the live casual labour register do not give rise to a continuous cause of action and hence the provisions of limitation contained in Section 21 of the Administrative Tribunal Act, 1985 would apply." (emphasis supplied)

5. From the aforesaid, it is clear to me that placing of the names of casual labours on the LCLR cannot give rise to a continuous cause of action and, inter alia, for this reason the OA in question was barred by limitation in terms of the provisions of Section 21 of the AT Act, 1985. The applicant in the OA was disengaged from casual employment lastly on 14.5.1982. Her name had not been brought on the LCLR, is admitted by the parties. She has not been re-engaged thereafter is also admitted by the parties. A grievance had accordingly come into existence soon after the aforesaid date, namely, 14.5.1982. The applicant in the OA had the option to represent in the matter before the respondents in the OA for re-engagement as also for the incorporation of her name on the LCLR. She did not do so and finally decided to file the OA in the year 2001. Clearly, the OA was filed belatedly and much beyond the time

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stipulated in Section 21 of the AT Act, 1985. Since her name had not been brought on the LCLR at the material time, the question of her name continuing on the very same register in terms of the Railway Board's Circular of 28.8.1987 cannot also arise. The review application is, in the circumstances, found to have considerable merit and force.

6. The learned counsel appearing on behalf of the respondent in the RA (applicant in the OA) has proceeded to place reliance on what the High Court of Delhi had observed in Sish Pal Singh & Ors v. UOI & Ors in OA No.914/1998, in turn relied upon by the Single Bench of the Tribunal in OA Nos. 280/2000, 973/2000 and 975/2000 decided on 14th September, 2001. The learned counsel has taken me through the aforesaid judgement of the Tribunal. I find that the High Court in Sish Pal Singh & Ors. case (supra) had made an observation to the effect that in a case like the present, the cause of action arising is a continuous one, and had accordingly remanded the said OA (No.914/1998) back to the Tribunal even though the Tribunal in that OA (No.914/1998) had rejected the claim of the applicant for the incorporation of his name in the LCLR. Upon ~~consideration~~ⁱⁿ further consideration of the matter in that OA (No.914/1998), *& in the light of High Court's observations above &* and after taking into account the decision of the Full Bench of the Tribunal dated 10th May, 2000, ^{also} referred to above, the Tribunal ~~has~~^{had} decided the matter by directing the respondents to scrutinise the records in respect of the applicant and thereafter to proceed to

incorporate his name in the LCLR in accordance with the rules and instructions. The judgement of the High Court and, in particular, the observation made by the said Court in Sish Pal Singh's case (supra) were not considered by the Full Bench at the time of passing of the order dated 10th May, 2000. In this view of the matter, the Single Bench of this Tribunal in its order dated 14th September, 2001, has held that the order of the Full Bench dated 10th May, 2000 is per incurium.

7. The learned counsel appearing on behalf of the review applicants has submitted that the aforesaid order dated 10th May, 2000 of the Full Bench of this Tribunal has already been taken to the High Court by way of a Writ Petition and the matter is currently pending in that Court. According to him, until a decision thereon is taken by the High Court, the aforesaid order dated 10th May, 2000 of the Full Bench will continue to hold the field, more so because the order of the Full Bench has come after the High Court made the observations in question in Sish Pal Singh's case (supra). I am inclined to agree.

8. For the reasons mentioned in the preceding paragraphs, the RA succeeds. The order dated 12th January, 2001 passed in OA No. 115/2001 is recalled. The OA is restored to file. However, for the very same reasons which have led to recalling of the aforesaid order, I dismiss the OA No. 115/2001.



(S.A.T. RIZVI)
MEMBER (A)

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