

3. Heard S/Shri B S Mainee and Rajinder Khattar learned counsel for the applicant and the respondents respectively.

4. To state the facts in brief, the applicant had worked from 3.3.86 to 1.5.86, under Section Engineer, Moradabad. He was not given work thereafter as the respondents could not verify the working period of the applicant. ^{period for which} ^{had worked} It was done only on 14.7.98. Thereafter he was asked to give his date of birth, which he declared as 12.1.68. In between Uttariya Rail Mazdoor Union (URMU) took up his cause on 14.8.97, who were replied that the working period was not verified. On URMU's pressing the matter the respondents in PNM Meeting, indicated that his inclusion in the list will be considered. This was confirmed after correspondence between the respondents and URMU, and agreed that if any of his junior was appointed his case also will be sent up to the General Manager (GM) for appointment. Divisional Railway Manager (DRM) Moradabad moved GM, in this context indicating that the applicant's name was to be interpolated in live casual register of S&T Deptt. at S1 No. 59 A. Applicant was also advised to submit the necessary details for his appointment in Group 'D'. Inspite of the above promise, by the impugned order dated 6.7.2000, the applicant was informed that his name cannot be included in the live casual labour register. Hence this O.A.

4. Grounds raised in the OA are as below:

- i) Railway Bd's Circular of 1986, stating that all those who were discharged after 1.1.81, should be kept on live casual labour register, squarely applies to the applicant.

- ii) After the applicant's service was verified by the Chief Telecom Inspector, there was no reason to deny inclusion of his name in the register;
- iii) non-inclusion of the name of the applicant was violating of the promise given by the respondents in PNM.
- iv) placement of the applicant in the live casual labour register was also in consonance with the recommendation of DRM, Moradabad.

Reiterating the above during the oral submissions, Sh. B S Maine, learned counsel ~~said~~ ^{said} that the applicant has been wronged by the respondents, inspite of the instructions being in his favour and therefore deserved Tribunal's protection.

5. Respondents strongly rebut the pleas raised on behalf of the applicant. It is submitted that the case of the applicant for inclusion in the live casual labour register, was taken up by the URMU, General Secretary and Divisional Secretary, who were informed on 2.2.98 and 29.9.99, that the same cannot be considered. On the issue being pressed again, his case was taken up and he was asked to produce the proof of age and his casual labour card, but he could not produce the card, which was the most relevant document. The matter being referred to the GM Northern Railway the latter did not accept the suggestion ^{for inclusion} in the absence of any supporting evidence. Applicant was accordingly informed on 6.7.2000. The present application is hopelessly time barred as issue is being raised after fifteen years. Reliance is placed on the decision of the Full Bench of the Tribunal in the case of Mahavir & Others, pronounced on 10.5.2000, of the Hon'ble Apex court in R C Samanta & Ors Vs UOI [1993 (3) SC 418], Central Bank of

-4-

India & Others Vs S. Satyam & Other [1996 (3) SCJSC1] and of the tribunal in OA 1421/1998, pronounced on 17.12.99, (Ranbir Singh & Others Vs UOI). Respondents also state that the powers for engagement of casual workers was vested in GM, after 1981, and all those who desired the inclusion of their names in the live casual register were to make request with documentary proof, which the applicant had failed to do. Therefore his previous service, if any, could not be verified, as all old documents had been weeded out. Further the applicant on his own admission had worked only for 48 days from 3.3.86 to 1.5.86, and only those who have rendered six months service, either continuously or in broken period, could be placed in Live Casual Labour Register, in terms of para 179(xiii)(c) of IREM Vol. I. ~~the~~ the applicant is dis-entitled on this count as well. Further those recruited as Casual workers for Kumbh Mela duties against sanction No. E/86-87 dated 28.2.86, like the applicant had been informed that the said service would not be included in Casual Labour Card. As the records could not be verified, the applicant's averment about his working could not be ~~verified~~ ^{confirmed}, more so as he had failed to produce his casual card. As the G.M. , who is the only authority to place any name on the Live Casual Labour Register, declined to do so in the case of the applicant, in the absence of any supporting evidence, the said decision was final. Thus both on merit and on preliminary grounds the OA should fail, according to the respondents, whose case was ably presented by their learned counsel Sh. Rajinder Khattar.

-5-

14

6. I have carefully considered the matter. The applicant in this OA , who had, on his own admission, worked for just 2 months during March to May 1986, during Kumbh Mela , has come up with the request for inclusion of his name in the Live Casual Labour Register and for appointment against an appropriate Group 'D', Post in preference to his juniors . This is being hotly contested by the respondents according to whom the claim is hit by limitation as well as on merits. The applicant had not been able to produce his casual labour card or any supporting evidence of genuineness of his days of working . Still on account of the repeated efforts by URMU , the Trade Union, the respondents had examined the case of the applicant and proposed his inclusion , to the General Manager, Northern Railway, who has declined to agree to the same. In terms of Para 179(xiii) (c) of IREM Vol. I, only those persons who had worked as casual labourer for at least a period of 6 months ,either continuously or in broken spells , can be considered for inclusion in the Live Casual Labour List. The applicant not having put in the requisite period his case could not have been considered. It is also on record that sanction No. E/86-87 dated 28.2.1996, relating to the sanction of staff for Kumbha Mela duties in 1986, against which the applicant claims to have worked , had clearly indicated that those who are recruited for Kumbh Mela duties cannot at all have any claim for inclusion in the Casual Labour List. This averment in the respondents' counter affidavit is also not denied by the applicant. That being the case it is evident that the applicant's case was examined by the respondents only as a matter of concession and at the instance of the URMU but having found that the same did not have any merit, it has been denied. This decision of the respondents cannot be called in question.

-6-

-6-

7. I am convinced, in the above circumstances that the applicant has not made ^{any} ~~any~~ case for Tribunal's interference. OA fails and is accordingly dismissed. No costs.

(Goyindan S. Tampi)
Member (A)

Patwal/