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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.1837/99

This is the 31st day of January, 2001.

Hon'ble Shri S.A.T. Rizvi, Member (A)

1. Preet ~~Kamal~~ S/O Shri Prem Prakash
2. Vijay Bahadar, S/O Sh. Suraj Prasad
3. Mahipal, S/O Shri Mewa Lal
4. Krishan Mohan, S/O Sh. _____

(All are casual who have worked in the
Railway Deptt. under Respondent No.3)
...Applicants.

(By Advocate: Shri Yogesh Sharma)

VERSUS

1. Union of India
through General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Delhi Division,
Near New Delhi Railway Station,
New Delhi.
3. IOW, Northern Railway,
Railway Station,
New Delhi.

...Respondents.

(By Advocate: Shri B.S.Jain)

O R D E R

The applicants, four in number, in this OA were engaged as casual labour in the Railways on 15.4.82 and have, according to the details given in the OA, worked for 202, 204, 193 and 207 days respectively. One of the applicants, Mahipal was disengaged on 2.11.82 after serving for 202 days, the other applicant, namely, Vijay Bhadur was disengaged on 4.11.82 after serving for 204 days, the 3rd applicant, namely, Preet Kamal was disengaged on 14.11.82 after serving for 193 days and the 4th applicant, namely, Krishan Mohan was disengaged on

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7.11.82 after serving for 207 days. Their grievance is that the respondents have not included their names in the Live Casual Labour Register (for short "LCLR") and have not since then reengaged them although freshers and juniors who have worked for lesser number of days have been engaged by the respondents.

2. The applicants have given names of eight persons who were junior to them but have been engaged by the respondents. Similarly, they have given four names of freshers ~~✓ who~~ have similarly been engaged. They have filed a joint representation on 18.1.99 for their re-engagement in preference over juniors and freshers but to date no reply has been received from the respondents. They have relied on the provisions of the Railway Board's instructions dated 28.8.1987 in support of their claim that their names should have been incorporated in the LCLR and they should have been re-engaged thereafter from time to time.

3. I have heard the learned counsel on either side and have perused the material placed on records.

4. The learned counsel appearing for the respondents has raised several contentions including those relating to the facts mentioned in the OA. In support of their contention that they had worked as casual labour for 202, 204, 193 and 207 days respectively, the applicants have placed on record four different certificates certifying the number of days for which each one of them is supposed to have worked as a casual in the Railways. According to

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the learned counsel for the respondents, these certificates issued on a plain paper, cannot be relied upon. A casual labour, according to him, is issued a casual labour card containing several details about the labourer himself and has an attested photograph of the labourer affixed to the card. The applicants have not produced any such card and, therefore, a possibility of impersonation cannot be ruled out. Furthermore, the details of the service, if any, rendered by any of them cannot be verified after 17 years inasmuch as paid vouchers etc. which can be relied upon for such verification, have been destroyed. Such vouchers etc., according to the learned counsel, have a life of only five years according to the Rules. in regard to the engagement of juniors and the freshers in the manner alleged by the applicants, the learned counsel avers that no junior to any of them has been engaged by the Railways. He further contends that since the applicants have not given details about the juniors and the freshers alleged to have been engaged, it is not possible to verify the facts from the Railway record. Further, according to the learned counsel, the applicants have never approached the respondents for their re-engagement. The joint representation alleged to have been filed by the applicants, has not been received in the office of the respondents. According to the learned counsel, the entire story given out by the applicants appears to be bogus. In the circumstances, after careful consideration, I am inclined to go along with their version and find it immensely difficult to believe the version put up by the applicants.

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5. The learned counsel on either side have placed before me copies of a number of orders passed by this Tribunal in several cases in support of their respective claims with regard to the question of limitation which has been treated as decisive in this OA. I have carefully perused all the judgements and orders placed on record and also those additionally supplied by the learned counsel. I find that, in the ultimate analysis, I cannot get away from the findings arrived at by the Full Bench in its order dated 10.5.2000 in OA-706/96 with other connected cases (Mahabir Vs. Union of India & Ors.). I find that the following question flowing from the provisions of the Railway Board's circular dated 28.8.1987 was referred to the aforesaid Full Bench for its verdict as follows:-

"(a) Whether the claim of a casual labourer who has worked prior to 1.1.1981 or thereafter with the respondents i.e. Railway Administration has a continuous cause of action to approach the Tribunal at any time, well after the period of limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985, to get a direction to have his name placed on the Live Casual Labour Registrar; in other words, whether the provisions of the relevant Railway Board circulars for placing his name in the LCL Registrar gives him a continuous cause of action."

6. The same has been answered in the following terms:-

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

Provisions of the relevant Railway Board's circular dated 25.4.1986 followed by the circular dated 28.8.1987 issued by the General Manager, Northern Railway for placing

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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 Tribunals Act, 1985 would apply.

7. The applicants in this OA were disengaged admittedly in 1982, i.e., about 17 years ago. Para 9 of the aforesaid Circular dated 28.8.1987 no doubt provides that the names of all casual labour discharged after 1.1.1981 are to be continued on the LCLR for an indefinite period. Placing ~~of~~^{ad-}iance on the aforesaid provision, I find, is entirely misplaced if one has regard to the findings arrived at by the F.B. and also having regard to the detailed discussion on the various provisions of the aforesaid circular forming part of the judgement and the order aforesaid of the F.B. It has been rightly argued therein that for the name of a casual labour to continue on the LCLR, it is necessary first for his name to be brought on the said register. Unless the name of a casual labour is so brought on the register, it cannot be continued. A grievance in this respect had indeed arisen in the present case soon after the applicants were disengaged in November, 1982. Accordingly, they should have represented in the matter before the respondent-Railways and on failing to obtain a proper remedy, should have approached this Tribunal or any other appropriate forum for redressal of their grievance. I find that none of the applicants has done so. In other words, nothing has been placed on record to show that the applicants made a grievance out of non-incorporation of their names in the LCLR, and a period of 17 years and more has since elapsed. At this

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point of time, therefore, they cannot seek a remedy in this regard. Thus, their names having not been incorporated ever in the LCLR, they cannot, at this point of time, ask for the continuance of their names in the LCLR in terms of the aforesaid para 9 of the Railway Board's circular dated 28.8.1987. Thus, their claim is hopelessly time barred and must be rejected on this ground also.

8. In the circumstances of this case, I find, there is no merit in the OA and besides it is hopelessly time barred. The same is dismissed without any order as to costs.

S.A.T. Rizvi
(S.A.T. Rizvi)
Member (A)

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