

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.1884/99

New Delhi, this the 22nd day of August, 2000

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

Gulab Chand, S/O Shri Jhari Ram, R/O
1557-588 Block-J, Jahangirpuri, New
Delhi.

.....Applicant

(By Advocate: Sh. S.P.Mehta)

Versus

1. Union of India through
General Manager, Northern Railway, Baroda
House, New Delhi.
2. ~~Divisional Rly. Manager, N.R., Ambala.~~ Respondents
(By Advocate: Sh. P.M.Ahlawat)

O R D E R

delivered by Hon'ble Mr. S.A.T.Rizvi, M (A):

The applicant's case is that he was engaged as a casual labour under I.O.W. (M), Northern Railway, Jagadhari Workshop and worked there as such from 6.6.78 to 4.7.78, on which (latter) date he was discharged. He was assured that he would be called back to join as casual labour as soon as a vacancy arose. This has not been done by the Railway administration and, besides, those junior to him have been given opportunities to work, thereby violating the provisions of Articles 14 & 16 of the constitution. Hence, this OA.

2. The applicant has stated that he has been requesting the Railway authorities from time to time to appoint him on the basis of his previous service, already referred to. A copy of his application to the Addl. Chief Mechanical Engineer, Jagadhari Workshop, dated 2.3.85 has been placed on record (Annexure A-2). He has also filed a representation before the D.R.M.,

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Northern Railway, Ambala on 5.1.87 (Annexure A-4). He

has again filed a representation to the Secretary, Ministry of Personnel & Public Grievances and Pension on 21.9.87, which was duly forwarded by that Ministry to the Railway Station, Mustafabad, Distt. Ambala on 20.10.87. An application dated 12.3.99 was also filed by the applicant before the General Manager, Northern Railway, Baroda House, New Delhi (Annexure A-7). The date of this application has been wrongly shown as 17.3.2000 in para 4.5 of the OA. The applicant has also relied on the Railway Board's Circular letter dated 4.3.87 on the subject "Casual Labour - maintenance of Live Casual Labour Register". This letter provides that the Ministry of Railways will give an opportunity to all open line casual labourers who were discharged before 1.1.81 for want of work or due to completion of work, for considering the inclusion of their names in the Live Casual Labour Register. The last date for receipt of applications under this circular was notified as 31.3.87. The applicant has pleaded that he is a very poor person and could not afford litigation expenses. He has also stated that, for this reason, the services of the learned counsel have been provided to him free of costs. An application for condoning the delay has also been separately filed by the applicant reiterating, more or less, the grounds already covered in this paragraphs.

3. The respondents have denied the charge that the applicant's claim for re-engagement as casual labour was ignored. They admit the fact that the applicant indeed worked as casual labour from 6.6.78 to 4.7.78.

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They have submitted that no one junior to the applicant has been re-engaged by the Railways and have, in the counter, listed all the six names, given in the OA indicating against each the number of days he was in service as casual labourer. It is seen from this list that the junior-most person, namely, Sh. Prem Chand, S/O Sh. Joli Ram had served for 41 days, which period is longer than the period of 29 days only for which the applicant had served as casual labourer. The respondents' claim is that the seniority in this matter is calculated, according to the existing instructions, on the basis of the length of service performed, and that there is no provision for counting of seniority from the date a person joined as casual labourer. The respondents have, however, not produced a copy of the aforesaid instructions. Their case is that the applicant never approached the Divisional Officer of Delhi for re-engagement between the period from 28.8.78 to 1.1.81 and that he also did not approach the Divisional Officer of Ambala for registration of his name in the Live Register of casual labourers in accordance with the circular dated 4.3.87, issued by the Railway administration, and referred to above. Their plea is that the application is barred by limitation under Section 21 of the Administrative Tribunals Act, 1985.

4. I have heard the learned counsel for the parties and have perused the records.

5. During the course of hearing, my attention has been drawn to the order passed by the Full Bench of this

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Tribunal on 20.5.2000 in respect of 7 different OAs filed

by the Casual Labourers, employed by the Railway in different Sections and for various purposes. I have perused the judgement of the Full Bench and find that it has, while laying down the guidelines for dealing with such cases, taken into account such among the casual labourers as have been employed from time to time on or after 1.1.81 and there is a reference also to those employed as such before 1.1.81 but continued in employment thereafter. The case of the applicant does not fall in this category inasmuch as he had worked in 1978, i.e., much before the cut off date of 1.1.81. A reference has been made in this judgement of the Full Bench to the Railway Board's Circular dated 28.8.87, the provisions of which are crucial in determining the questions relating to persons who want to be placed in the Live Register of casual labourers and also those already figuring in such register but wanting to be employed as such labourers. Confining itself to the cases relating to the period from 1.1.81 onward, the Full Bench has held as follows:-

".....To give an example, in respect of casual labour 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 register indefinitely. However, before that right 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 1.1.82 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,

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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 1.1.82 is denied to him, he has to take recourse to approach this Tribunal within the time prescribed by Section 21 of the Administrative Tribunals Act, 1985. He cannot wait for time immemorial and approach the Tribunal at leisure and, at his whims and fancies, may be years later, and assert his right of being placed on the register."

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In the circumstances, we are of the considered view that provisions contained in Section 21 of the Administrative Tribunals Act, 1985 prescribing the period of limitation will be applicable of the applications filed seeking benefit of the aforesaid circular.

6. The applicant has no doubt placed on file a few applications which he has sent to the various Railways authorities, seeking re-engagement in the light of the previous service of 29 days performed in 1978 but the respondents do not seem to have received any of them, and in respect of the latest representation dated 12.3.99, supposed to have been filed with the General Manager, Northern Railway, New Delhi, there is a categorical averment by the respondents that this one was not available in the office of the respondent No.2. Looking at the various applications filed by the applicant before different authorities, one is left with a feeling that the applicant failed to come up with proper and effective representations to further his interests. The respondents have also stated that the applicant never approached the Divisional Officer of Delhi for re-engagement in the period 28.8.78 to 1.1.81 when his problem could have been looked into and his need

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taken care of. The applicant also failed to avail of the opportunity afforded by the Railway Board's Circular dated 4.3.87, referred to in the preceding paragraphs. Thus, in conclusion, what appears to me is that by filing his first representation in March, 1985, i.e., seven years after he had been discharged from work, and thereafter, addressing different authorities in January, 1987, September, 1987 and again in March, 1999, i.e., twelve years after the last representation of 1987, the applicant has exhibited in-difference of an unusual kind and such a scenario cannot help him while invoking Section 21 of the Administrative Tribunals Act, 1985 for waiver of limitation. Lastly, even if the judgement of the Full Bench of this Tribunal, referred to above, relates itself to the cases of casual labourers from 1.1.81 onward, I am bound by the salutary guidelines laid by the Full Bench after careful consideration of the entire matter relating to casual labourers employed in the Railways and having regard to various judgements of the Apex Court on the question of limitation.

7. In the result, the OA fails and is dismissed without any order as to costs.

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

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