

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No.1260/98
M.A. No.1341/98

HON'BLE SHRI R.K. AHOOJA, MEMBER(A)

New Delhi, this the 4th day of June, 1999

Shri Shiv Charan
S/o Shri Sugandh
R/o 346, Doula Duan, Part II
New Delhi-110 010

....Applicant

(By Advocate: Shri B.S. Mainee)

Versus

Union of India through

1. The General Manager
Western Railway
Churchgate, Mumbai
2. The Divisional Railway Manager
Western Railway, Kota
3. The Station Superintendent
Western Railway
Sawai Madhopur (Gangapur City)

... Respondents

(By Advocate: Shri P.S. Mahendru)

O R D E R

The case of the applicant is that he was engaged as a Casual Labour on 26.6.1988 under the Station Superintendent, Sawai Madhopur and continued to work as such intermittently upto 30.6.1991. He was also conferred temporary status by letter dated 25.10.1981 (copy at Annexure A-2). His grievance is that he was not given reengagement after 1991 and that his name has not been placed on the Live Casual Labour Register for further engagement and regularisation in accordance with the scheme of the Railway Board at Annexure A-4.

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2. The respondents admit the claim of the applicant in regard to the period of casual labour rendered by him. They, however, state that the applicant was engaged on a seasonal basis during hot weather and as such he is not covered by the circular at Annexure A-4.

3. I have heard the counsel. The main ground taken by the respondents is that a casual labour engaged on seasonal basis is in a different position than a casual labour engaged on open line or projects on construction or maintenance. The learned counsel for the applicant in this connection drew my attention to the Western Railway letter on the subject of engagement of hot weather watermen for the summer season 1992. A copy of the letter is available at Annexure R/1. According to this letter, for engagement against the requirement of hot weather watermen, preference will be given to those who had already worked in that capacity and only if no such person is available then persons from the Live Casual Labour Register will be engaged. According to the learned counsel it means that a seasonal worker working during hot weather as Waterman is in a category apart from casual labour whose names are entered in the Live Casual Labour Register.

4. I am unable to agree with the learned counsel. Essentially a casual labourer is one who is paid on daily rate basis, generally from the contingencies. His appointment is not against a regular post or vacancy. There is no difference between a casual labourer working as a waterman on a seasonal basis and the casual labourer working as a member of a gang for maintaining or patrolling permanent way. The applicant is, therefore,

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equally entitled to have his name placed on the Live Casual Labour Register, more so because there is no provision in the circular at Annexure A-4 that those who are working as hot weather watermen are not entitled to this benefit. (16)

5. The respondents have also raised a preliminary objection in regard to limitation. As has already been held by the Tribunal in similar judgments, a person who certified to have his name placed on the Live Casual Labour Register which is to be maintained by the respondents has a recurring cause of action every time his junior or outsider is offered reengagement ignoring his claim. However, the relief to be granted in such cases has to be determined in the context of the time frame in which he approaches the Tribunal.

6. The O.A. is allowed. The respondents are directed to include his name in the Live Casual Labour Register and to offer reengagement if work is available in his own turn. It is made clear that the applicant will have no preferential claim over those whose names already exist in the Live Casual Labour Register and who have been offered reengagement and regularisation. No costs.

R. K. Ahooja
(R.K. AHOOJA)
MEMBER (A)

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