

Central Administrative Tribunal, Principal Bench

Original Application No. 1376 of 1998

New Delhi, this the 16th day of February, 2000

Hon'ble Mr. Kuldip Singh, Member (J)

Sudama Singh S/o Sh. Ram Brat
R/o 15/20 Sonia Vihar,
Delhi.

- Applicant

(By Advocate Shri D.K. Garg)

Versus

1. Union of India
through the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Hapur, Muradabad.
3. Inspector of Works/Traffic Inspector,
Gurmukteshwar, Hajipur, Gulwati,
Baral, Maman, Kurja, Kabather, Maharuli,
Amroha, Lodipur, Beshanpur and Kharkhoda,
Northern Railway. - Respondents

(By Advocate - Shri R.L. Dhawan)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicant, Sudama Singh in this OA has alleged to have worked as casual labourer with the respondents-Railways for more than 400 days during November, 1981 upto 18.11.1986 under different Works Inspector and further alleges that he has been deprived of his right to be regularly appointed as Class IV employee despite the fact that he has made several representations for conducting a screening test and for regularising his services. The action of the respondents is illegal, arbitrary and discriminatory and thus has prayed for a direction to the respondents to reengage the applicant and to regularise his services since juniors to the applicant who had joined later, had already been regularised.

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(10)

2. The respondents contested the OA and it is stated that the application is barred by time as the applicant claims to have worked last in the year 1986 and the present application having been filed in the year 1998 after sleeping over his right for a period of more than 10 years, is not maintainable under the law.

3. They further pleaded that in the year 1978 Railway Board reviewed the policy regarding reengaging casual labour and it was decided that the power of engaging fresh casual labour can be exercised only with the approval of the Divisional Superintendent and it was desired that no fresh casual labourers be recruited without obtaining the approval of the General manager. Thus it is submitted that the casual labourer recruited after 3.1.1981 is bad in law and their appointments are void ab initio.

4. It is further stated that similar cases have been dismissed by the Tribunal by various judgments.

5. I have heard the learned counsel for the parties and have gone through the records.

6. The learned counsel for the applicant has referred to a judgment delivered by a Co-ordinate Bench at the Principal Bench on 27.9.1995 on OA 2529/94 and other connected matters. At the outset I may mention that this judgment does not help the applicant because as per the judgment the aforesaid cases were disposed of with a *km*

direction that the petitioners in that case may approach the DRM for their names being included in the Live Casual Labour Register. On the contrary, the learned for the respondents has relied upon a judgment in Dal Chand Vs. U.O.I. & Others - OA 1540/97 decided on 23.3.98 wherein the applicant who had claimed that he had worked with the respondents from March, 1979 to June, 1987 as a casual labour but the respondents have not included his name in the live casual labour register. The OA was dismissed since he had not filed any representation till 12.11.1997 and it was observed by the Tribunal that the fact that his application has been filed 13 years after his last engagement lends credence to the claim of the respondents that the applicant has left the work on his own in the year 1984. Similarly in another OA 701/97 - Dal Chand Vs. U.O.I. & Others decided on 26.2.1998 wherein it was observed by the Tribunal that it is difficult to appreciate how the applicant could remain silent after 1988 in agitating his issue particularly when the applicant is stated to have obtained temporary status and still his OA was dismissed. The respondents counsel has also relied upon OA 664/95 decided on 29.5.98 - Tulsi Ram Vs. The General Manager and Others wherein it was observed as follows:-

"When the applicant keeps quiet for more than fifteen years and makes no efforts to obtain relief the presumption would be that the applicant left the work on his own accord and was no more interested in obtaining employment with the railways and his present application is only an after thought".

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(21)

7. There are numerous judgments on this topic and I find that in this case the applicant is alleged to have worked during 1981 to 1986 and thereafter he made a first representation on 23.9.97. There is no explanation as to why he had been sleeping over his rights from 1986 to 1997 and has filed the OA only in July, 1998. A perusal of the judgments relied upon by the respondents show that in all these cases it is to be deemed as if the applicants had left the service on their own and had rendered themselves as not to be enlisted in the Live Casual Labour Register and for his reengagement.

8. I have no reasons to differ with these judgments and applying the law laid down in those judgments, I hold that the OA of the applicant has no merits and the same is liable to be dismissed.



(Kuldip Singh)
Member (J)

/Rakesh