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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A. No.1939/98

Hon'ble Shri R.K. Ahooja, Member(A)

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

Shri Dorey Ram
S/o Shri Narayan Singh
R/o Patel Nagar Railway Station
Shiv Basti, Rama Road
Jhuggi No.OW-34/5
New Delhi

..... Applicant

(By Advocate: Shri U. Srivastava)

Versus

Union of India Through

1. The General Manager
Northern Railway, Baroda House
New Delhi

2. The Divisional Railway Manager
Northern Railway
New Delhi

3. The Permanent Way Inspector
Patel Nagar, New Delhi

..... Respondents

(By Advocate: Shri B.S. Jain)

O R D E R

The applicant claims that he has worked as a Casual Labour with the respondents from July, 1981 to December, 1982 for a total period of 549 days. He contends that he was disengaged on completion of work. He further submits that he later came to know that some persons junior to him approached this Tribunal and obtained directions for inclusion of their names on the Live Casual Labour Register. He made a representation to the respondents which has not been considered. Hence this

O.A.

2. The respondents have stated that one person ~~with~~ the same name as the applicant had worked under PWI/MTP, Patel Nagar between different spells during 1.7.81 to 31.12.82. They submit that at this distance of

(JW)

time they are unable to confirm whether he had been disengaged on completion of work. They also submit that even if the name of the applicant regarding his engagement is correct, such an engagement was void ab-initio as he was engaged by an unauthorised person. Power for engaging fresh casual labour after 1.1.81 was available only with the General Manager. They also say that the benefit of inclusion of the name in the Live Casual Labour Register as per the scheme prepared by the Railways could be availed of only by such persons who were engaged as casual labour prior to 1.1.81 and who were retrenched on completion of work after that date. According to them as the applicant was admittedly first engaged after 1.1.81, he is not entitled to have his name included in the Live Casual Labour Register. The respondents also say that the claim of the applicant is totally barred by limitation as he has approached this Tribunal admittedly after a delay of over 15 years.

3. I have heard the counsel. As regards the objections of the respondents regarding limitation is concerned, this Tribunal has already held that as the responsibility of maintaining the names on the Live Casual Labour Register rests with the respondents themselves, the applicant would have a recurring cause of action every time a junior or a fresher is reengaged by them. It has also been held that the operational scheme is not confined to those who were engaged prior to 1.1.81 and who were retrenched after this date, but instead applies to all the casual labourers engaged after 1.1.81 and retrenched for want of work. In regard to the objection that the applicant was not engaged by competent persons, it is again a matter of fact for the respondents to look into as

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a poor labourer cannot be expected to ascertain the niceties regarding the competency of a person engaging him. If no action was initiated by those who had engaged such casual labour who were ~~already~~ ^{thereafter} paid from the public funds, then it must be assumed that relaxation had been granted to such persons as regards the restriction on engaging casual labour.

4. In this case the respondents have admitted that a person having the name of the applicant was in their engagement.

5. In the result the O.A. is allowed. The respondents ^{will} after verifying that it is the same Dorey Ram who was in their engagement, include his name in the Live Casual Labour Register and reengage him subject to availability of work. It is however, made clear that considering the ~~time~~ frame in which the applicant has approached the Tribunal, the applicant will have no claim ~~The whose names exist on live casual labour register or against those~~ ^{who have already been offered reengagement} or regularised in service.

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

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