

Central Administrative Tribunal
Principal Bench

O.A. 2324/98

New Delhi this the 20 th day of July, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

1. Coal Handling Workers Labour
Co-operative Society Ltd.,
through the Secretary,
C.B.9/100, Marhinath Road,
Bareilly.
2. Pradeep,
Secretary,
Coal Handling Workers Labour
Co-operative Society Ltd.,
C.B.9/100, Marhinath Road,
Bareilly. ... Applicants.

(By Advocate Mrs. Rani Chhabra)

Versus

1. Union of India,
through the Secretary,
Railway Board, Rail Bhawan,
New Delhi.
2. Dy. Director Estt (N),
Railway Board, Rail Bhawan,
New Delhi.
3. The General Manager,
Northern Eastern Railway,
Railway Headquarter,
Gorakhpur.
4. Senior Divisional Mechanical Engineer,
North East Railway Izatnagar,
Bareilly. ... Respondents.

(By Advocate Shri B.S. Jain)

O R D E R

Hon'ble Smt. Lakshmi Swaminathan, Member(J).

The applicants have filed this application praying for a direction to respondents 1 and 2 to consider the case of the members of the applicants' society for re-engagement and regularisation, by way of extending the benefits of the circular dated 31.8.1992 (Annexure A-7) and the judgement/order in Mohan Lal & Ors. Vs. Union of India & Ors. (OA 2685/91), decided on 16.7.1992 (Annexure A-5).

J.S.

2. Mrs. Rani Chhabra, learned counsel for the applicants has submitted that the aforesaid circular dated 31.8.1992 has been issued by the Railway Board on the subject of "Treatment of piece-rated contract labour of Jaipur Division as casual labour on Western Railway". By the order of the Principal Bench of the Tribunal dated 16.7.1992 in **Mohan Lal's** case (supra), it was observed that the respondents should consider the suitability of the applicants and those similarly situated on the basis of the respective length of service and other relevant criteria and accommodate them as casual labourers wherever the vacancies exist and in accordance with the Scheme. This judgement has also been referred to in the Railway Board's circular dated 31.8.1992 in which four conditions have been stipulated. The learned counsel has submitted that on the basis of a number of judgements delivered by the Supreme Court, the benefits given to other similarly situated persons should also be extended to the members of the applicants' society, who were also engaged as Coalmen, before the respondents had switched on to Diesel and Electrical Engines, resulting in the disengagement of the applicants in the year 1994. She has also contended that the benefits given to persons, who have come to the court earlier should not be denied to the applicants. She has relied on the judgements of the Supreme Court in **G.C. Ghosh & Ors. Vs. Union of India & Ors.** (1991 Supp. (2) SCC 497) and **National Federation of Railway Porters, Vendors and Bearers Vs. Union of India & Ors.** (1995 Supp.(3) SCC 152).

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3. I have seen the reply filed by the respondents and heard Shri B.S. Jain, learned counsel. He has taken a preliminary objection that the O.A. is barred by limitation and has also taken an objection on the ground of jurisdiction, stating that the Allahabad Bench of the Tribunal has jurisdiction in the matter, as ~~the~~ the applicant 1, which is a co-operative society is at Bareilly. He has also submitted that repeated representations stated to have been made by the applicant in 1994 and 1996 do not extend the period of limitation. The respondents have, however, not denied issuance of the circular dated 31.8.1992 by the Railway Board. The respondents have placed on record the letter dated 28.1.1999 with reference to the Railway Board letter dated 31.8.1992, relied upon by the applicant. In this letter, it is stated that with the emphasis on upgradation of technology and multi-skilling, absorption of contractors' labourers engaged in coal and ash handling work which is an absolutely unskilled job will run contrary to the present day environment and needs of Railways. They have also submitted that any decision to consider such absorption will only open flood-gate for absorption of unskilled staff and thus they have decided not to absorb such coal/ash handling contract labourers in the Railways. Shri B.S. Jain, learned counsel has relied on the judgements of the Supreme Court in **State of Punjab & Ors. Vs. Ram Lubhaya Bagga & Ors.** (1998 SCC (L&S) 1021) and **S.P. Shivprasad Pipal Vs. Union of India & Ors.** (1998(3) SLJ 108).

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4. In the rejoinder filed by the applicants, they have reiterated their submissions in the application. Learned counsel for the applicants has also submitted that the Scheme or policy which has been issued on 31.8.1992 has been issued by Respondents 1 and 2 at New Delhi.

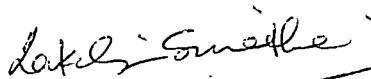
5. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

6. This O.A. has been filed by the Society as well as members of the Society for re-engagement and regularisation as casual labourers with the respondents, on the ground that they were discharging the same or similar duties as Coalmen in the Jaipur Division, Western Railway. They have relied heavily on the circular issued by the Railway Board dated 31.8.1992 and the judgement of the Tribunal in **Mohan Lal's case** (supra) dated 16.7.1992. I find merit in the contention of Shri B.S. Jain, learned counsel that taking into account these facts, the application is hopelessly barred by limitation and there is not even an application for condonation of delay. It is settled law that repeated representations said to have been made by the applicants to the respondents do not extend the period of limitation. Apart from the question of limitation, there is also merit in the reasons given in the Railway Board letter dated 28.1.1999. In this letter, they have stated, inter alia, that absorption of contractors' labourers engaged in coal and ash handling work which is ^{an} absolutely unskilled job will run contrary to the present day environment and needs of Railways. This decision of the Railway Board cannot be held to be either unreasonable or arbitrary, considering the lapse of nearly six years since

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the earlier circular was issued on 31.8.1992 which is relied upon by the applicant. It is not the contention of the applicants that they had done any skilled job, but had only been engaged in loading and unloading of coal in Engines prior to their disengagement in November, 1994. In the facts and circumstances of the case, the policy decision of the Railway Board not to absorb unskilled staff, who were previously engaged in coal and ash handling work, is not arbitrary or unreasonable. The respondents have also submitted that the steam engines have been replaced by Diesel and Electrical engines resulting in closure of loco sheds. These are policy decisions. In the circumstances of the case, having regard to the decision of the Supreme Court in S.P. Shivprasad Pipal's case (supra), there appears to be no good grounds to interfere in the matter.

7. In the result, for the reasons given above, O.A. fails and is dismissed. No order as to costs.



(Smt. Lakshmi Swaminathan)
Member(J)

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