

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
OA 2465/98

New Delhi this the 18th day of January, 2000

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

1. Sunil Rai
S/O Sh. Ram Kishan Mahto
Resident of T-II, 393, Krishi Kunj,
I.A.R.I.Pusa, New Delhi-12
2. Kuldip Rai
S/o Sh. Ram Sewak Rai
resident of I-243, I.A.R.I.Pusa,
New Delhi-12

.. Applicants

(By Advocate Shri S.L.Hans)

versus

Union of India, through
Secretary, Indian Council of
Agricultural Research,
Krishi Bhawan,
New Delhi-1

.. Respondent

(By Advocate Sh. V.K.Rao)

ORDER (ORAL)

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

The applicants who claim that they have been working as casual labourers with the respondents sometime in 1990 and 1991 have filed this application for quashing the impugned seniority list of Daily Paid Labourers issued by the respondents (Annexure A-1).

2. The brief facts of the case are that the applicants have been engaged as casual labourers by the respondents for 73 days in the case of applicant No.1 and 68½ days in the case of applicant 2 as given in para 4.1. They have also annexed certain documents to support these averments. They are aggrieved by the fact that they were working as daily paid labourers prior to those who are shown in the impugned seniority list of casual labourers who had been engaged on or after 4.1.1992, but they have been ignored

(A)

arbitrarily and hence learned counsel submits that they have been discriminated. Sh. S.L.Hans, learned counsel has very vehemently submitted that while the respondents have included the names of persons who are juniors to the applicants as they have been engaged later, they could not have ignored the claim of the applicants to include them in the seniority list. According to him, the applicants have submitted their applications for enrolment of their names as daily paid casual labourers which was acknowledged by the respondents on 16.7.93 (page 17 A of the paper book). He has also annexed the copy of the public notice issued by Respondent dated 14.9.93 calling upon all persons who had worked on casual basis that they should furnish documentary evidence on or before 31.10.1993 for their registration to enable the organisation to complete ^{the} seniority list of daily paid labourers. Shri Hans, learned counsel for the applicant has submitted that although, after submission of the representations by the applicants ~~in~~ sometime in July, 1997, they have been sending reminders to the respondents but they do not have the copies of the same. He has further submitted that the question of limitation does not arise in the case as the applicants are poor and illiterate persons. He further submits that apart from the public notice issued by the respondents in 1993, they have also issued subsequent similar notices in 1995 and 1998. After hearing the learned counsel for some time, he has submitted that he does not press for quashing the impugned seniority list as mentioned even in paragraph 8(2) or/8(3) of the OA. He, however, submits that in the facts and circumstances of the case, the respondents should be directed to engage the applicants as casual labourers taking into account their past services in preference to juniors and outsiders. He relies on the judgement of the Tribunal in Shish Pal Singh vs. UOI through its Secretary, Ministry of Agriculture, Krishi Bhawan and Ors (OA 311/95 with connected OAs) decided on 18.9.95

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and Bindeshwar Vs. UOI through its Secretary, Ministry of Agriculture
Krishi Bhawan and Ors (OA 1118/96 with connected OAs) decided
on 24.7.1997 (Copies placed at pages from 18 to 26 of the paper
book). He also relies on the judgement of the Hon'ble Supreme
Court in Central Welfare Board and Others Vs. Anjali Bepari (Ms)
and others (1996 SCC(L&S) 1358.

3. I have perused the reply and heard Shri V.K.Rao, learned
counsel for the respondents. Respondents have raised a preliminary
objection on the ground of limitation as the applicants have
challenged the seniority list prepared in pursuance of the public
notice issued by them on 14.9.93, whereas OA has been filed on
11.12.1998. He has also submitted that as the representations
made by the applicants themselves are alleged to have been
received by the respondents on 9.7.93 and 16.7.93, the same cannot
be taken as representation made by the applicants in pursuance of
the public notice dated 14.9.93. He has further submitted that as
the applicants have made the representations prior to the public
notice, there was no reason why they could not reply in pursuance
of the public notice and pursue them in time. Learned counsel has
also submitted that in the Tribunal's orders dated 18.9.95 and
24.7.97 referred to above and relied upon by the applicants, the
orders were more or less ~~the~~ consent orders and the question of
limitation ~~was~~ not raised in those OAs. He, however, submits that
in the present case, the applicants have filed this very belated
application in which not only they have made representations prior
to the public notice i.e. 14.9.93, but they have not even pursued
thereafter ~~sending their~~ representations ^{sent} prior to that date in
July, 1993. Shri Rao, learned counsel has submitted that the action
of the respondents in first issuing public notice and thereafter
preparing the seniority list of daily paid casual labourers cannot
be faulted. He has further submitted that if at this stage the
directions as claimed by the applicants counsel during hearing are

granted, it would cause administrative difficulties as the respondents are strictly going by ^{the} seniority list of casual paid labourers as and when the work is available. (21)

4. I have carefully perused the pleadings on records. In this case the applicants have claimed that they have submitted certain representations to the respondents to enrol their names in the list of daily paid casual labourers, as they have been working with them ^{for} some time in 1990 and 1991. The claim of the applicants that this case is covered by the Tribunal's orders in OA 311/95 and OA 1118/96 (with connected OAs) cannot be accepted in toto because it is noticed that in those cases the question of limitation has neither been raised nor dealt with ^{by} the Hon'ble Tribunal. However, in this case the issue has been raised by the learned counsel for the respondents. From the facts narrated above, it is seen that even prior to the public notice issued by the respondents on 14.9.93, the applicants have made certain representations to enrol their names in the seniority list of daily paid casual labourers. It is further noticed that not even an MA for condonation of delay has been filed and Paragraph 3 of the OA merely states that the application is within the limitation as prescribed in Section 21 of the Administrative Tribunals Act, 1985. I am unable to agree with this contention as ^{the} cause of action in this case has arisen as far back as in 1993 and the application should have been filed within one year or 6 months of the filing of the representation as provided under Section 21 of ¹⁹⁸⁵ ATAct. Having regard to the judgement of the Hon'ble Supreme Court in P.K.Ramachandran vs. State of Kerala and Others (JT 1998(7) SC 21), the provisions of Section 21 of ATAct and the facts of this case, I find that this OA suffers from laches and delay and is barred by limitation. The judgement relied upon by the applicants/no-where the respondents have/that they are ^{is not applicable as} stated

taking other persons from the Employment Exchange in lieu of the applicants and the grievance of the applicants in the present case is entirely different. In the circumstances the judgement of the Supreme Court in Anjali Bepari's case (supra), relied by the applicants will not assist them. (See the observations of the Hon'ble Supreme Court in Delhi Administration and Ors. Vs. Hira Lal and Ors (JT 1999 (10)SC 128). 22

5. In the result for the reasons given above, OA fails and is dismissed. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)