

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

(11)

OA No. 335/98  
MA No. 350/98  
MA No. 1802/98

New Delhi, this the 2nd day of December, 1998

HON'BLE SHRI T.N. BHAT, MEMBER (J)

In the matter of:

Shri Than Singh  
S/o Shri Durga Prasad  
Ex. Gangman  
under Permanent Way Inspector (PQRS)  
Northern Railway  
Allahabad Division.  
R/o C/o Sh. Bhola Mandal  
B9, Sunil Store,  
Gari Lajpat Nagar,  
New Delhi. .... Applicant  
(By Advocate: Sh. B.S. Mainee)

Vs.

Union of India through  
1. The General Manager  
Northern Railway  
Baroda House  
New Delhi.  
  
2. The Assistant Engineer (PQRS)  
Northern Railway,  
Baroda House,  
New Delhi.  
  
3. The Permanent Way Inspector  
Northern Railway  
Fatehpur. .... Respondents  
(By Advocate: None)

O R D E R (ORAL)

delivered by Hon'ble Shri T.N. Bhat, Member (J)

1. Heard the counsel for the applicant.
2. The applicant in this OA is aggrieved by the action of the respondents in not re-engaging him as casual labourer although his other colleagues who had also worked alongwith him under P.W.I., Allahabad Division have already been re-engaged. He is also aggrieved by the fact that his name has not been placed on the Live Casual Labour Register as per Railway Board instructions.

2.12.98

3. The applicant was initially engaged as a casual labourer in the year 1984 and according to him, he worked upto 14.8.85 in the Allahabad Division, Northern Railways, at Fatehpur.

4. He claims temporary status as a casual labourer on the ground that he had worked for 120 days continuously. The applicant has also appended the certificate of his work at Annexure A-1. There are also other certificates collectively marked as Annexure A-2.

5. On the strength of some earlier judgments of the Tribunal, the applicant claims the following relief:-

- "(i) That this honourable Tribunal may be pleased to allow this application and direct the respondents to re-engage the services of the applicant immediately because his colleagues are already working.
- "(ii) That this honourable Tribunal may be further pleased to direct the respondents to place the name of the applicant on the live casual labour register and assign proper seniority to the applicant.
- "(iii) That any other or further relief which this honourable Tribunal may be deem fit and proper under the circumstances of the case may also be granted in favour of the applicant.

"(iv) That the cost of the proceedings may also be granted in favour of the applicant."

6. The respondents have in their counter taken the preliminary objection of limitation as also jurisdiction. On facts the respondents have taken the plea that the applicant has never worked with them and, therefore, there is no question of applicant's re-engagement.

7. During the course of his arguments, the learned counsel for the applicant drew my attention towards the circular dated 28.8.87 issued by the General Manager, Northern Railways in pursuance to the instructions issued by the Railway Board by the circular dated 25.4.86. According to this circular those casual labourers who had been discharged after 1.1.81 are required to be placed on the casual labour register and their names have to be continued on the live register indefinitely. Further, the learned counsel refers to the certificates as at Annexures A-1 and A-2 which support the applicant's contention that he had worked for more than 218 days in 1984-85. Annexure A-2 also certifies that the applicant had worked for 177 days under PWI, Allahabad Division, Northern Railway. There is another certificate showing that the applicant had worked for 148 days in the year 1985. Thus, the contention of the respondents that the applicant had never worked with the Railways as casual labourer cannot be accepted.

(A)

8. As regards limitation the learned counsel for the applicant relies upon some earlier judgments of the Tribunal in which on identical facts the plea of limitation raised by the respondents was rejected. One of the judgments was delivered by Hon'ble N.Sahu, member (A) on 5.11.98 in OA-2716/97 and the other was delivered by Hon'ble S.P.Biswas, Member (A) on 20.11.97 in OA-1076 wherein reference has been made to Ratan Chander Samanta and Others vs. UOI & Others, JT 933 (3) SC 418, and Central Bank vs. S.Satyam & Others, 1996 (3) SLJ SC 1. In both these judgments the plea of the limitation raised by the Railways in their counters was rejected.

9. For the foregoing reasons this OA has to be allowed. In the event, the OA is disposed of with the direction to the respondents to consider placing the name of the applicant in the Live Casual Labour Register after considering the representation of the applicant, which may be filed within a month from today, together with all the documents which may be annexed to the representation as proof of the work done by the applicant as casual labour. The respondents shall further consider re-engagement of the applicant according to the seniority in the live register as and when vacancy arises or becomes available. In case the applicant finds a place in the live register as above he shall be informed about the Serial Number in the register. It shall, however, be incumbent on the applicant as and when called by the respondents to appear before them when work is offered to him. With this order the OA is disposed of leaving the parties to bear their own costs.

15

10. MA-350/98 for condonation of delay is allowed. As regards MA-1802/98, the same does not survive. I may also indicate that according to the respondents the relevant records are not available. It is therefore made clear that while taking the decision in the matter the respondents shall not go by the mere fact that the records are not available with them and they shall objectively consider the documents and other proof which the applicant may furnish.

*T. N. Bhat* / 2.12.98.

( T. N. BHAT )  
Member ( J )

'sd'