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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-412/98

New Delhi this the 19th day of February, 1999.

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

Shri Jehli Chouhan,
S/o Sh. Haridawar Chouhan,
R/o GZ=68, Ganga Vihar,
Delhi-94. Applicant

(through Shri B.S. Maine, advocate)

versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
3. The Inspector of Works(Special),
Northern Railway,
Tilak Bridge,
New Delhi. Respondents

(through Sh. R.P. Aggarwal, advocate)

ORDER

The applicant states that he had worked with the respondents under I.O.W. (Special) Tilak Bridge New Delhi from 8.12.79 to 25.9.80 continuously for 245 days. In the year 1989 he was called for screening for appointment as a Substitute Group-D employee and an appointment letter dated 18.4.90 was also sent to the applicant as unscreened Substitute with directions to report in the office on any date before 25.4.90. Thereafter, he was sent for medical examination. His grievance is that though he had been found medically fit he was not given actual appointment. He made representations to the Sr. Officers as well as to the Minister of Railways and the Railway Board had also

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issued direction to DRM New Delhi to give him an appointment but with no result. The applicant says that some other casual labourers who were also screened in the year 1989 and to whom similar offers of appointment had been given filed an OA-1996/92 and the same was allowed by an order dated 28.5.97. The respondents have also in compliance of the directions of the Tribunal given appointments to the applicants therein. He has, therefore, now come before the Tribunal for a similar direction for his appointment and regularisation as a Group-D employee.

2. The respondents in their reply have stated that as the applicant had worked prior to 1.1.81 he was not entitled to have his name included in the live casual labour register. In 1989 the process was initiated for re-engagement of ex-casual labour and on that basis in April 1990 the applicant was also issued a medical memo. In the meantime, the Railway Board issued direction No. PS 10107 dated 9.3.90 according to which no casual labour could be engaged without the personal and prior approval of General Manager. Hence, processing of all such cases was stopped. As regards the screening done in 1989, the respondents submit that the result thereof has not been declared to date. The respondents have also taken the plea that the O.A. is belated and barred by limitation.

3. I have heard Shri B.S. Maine for applicant and Sh. R.P. Aggarwal for respondents. The 1d. counsel for the applicant has drawn my attention to the order of

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the Tribunal dated 28.5.97 in OA-1966/92. I have perused this order, a copy of which is available at Annexure-A10 to the O.A. It is not at all clear that the applicants therein were in similar position as the applicant before me. The relief was claimed in OA-1966/92 (Subhas Saha & Ors. Vs. G.M. & Anr.) with reference to the appointment of two other persons. It was noticed that the respondents had not filed any reply and hence the submissions of the applicant were deemed to have been accepted by the respondents. In the present case, the respondents have filed a reply and have stated the reasons why appointment could not be offered to the applicant. Therefore, I find that the applicant cannot claim the benefit of the Tribunal's decision in OA-1966/92.

4. On the merits of the case, I find that the applicant was not entitled to the benefit of the Scheme for placing his name on the live casual labour register as he had not worked on or after 1.1.81. Therefore, the appointment of any person after him could not give him a recurring cause of action. His screening in 1989 and the offer of 1990 which was not carried through gave him a cause of action but the applicant did not approach the Tribunal in time. A Misc. Application for condonation of delay has been filed. The explanation for delay given is that he waited as other persons screened with him in the year 1989 had been given appointments even upto 1994 and that further on the basis of the decision of the Tribunal in OA-1966/92, further appointments of casual labourers were made even in 1998. I do not find this explanation to

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be satisfactory. As held in Bhoop Singh Vs. U.O.I. (J.T. 1992(3) SC 322, the judgement and orders of the Court in the other cases do not give a fresh cause of action. The cause of action has to be reckoned from the actual date. Therefore, the decision of the Tribunal in OA-1966/92 does not give the applicant a fresh cause of action.

5. Finding that the present application suffers from latches and is highly belated, the same is dismissed on ground of limitation. There will be no order as to costs.

R.K. Ahuja
(R.K. Ahuja)
Member(A)

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