

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.NO.549/98

Hon'ble Shri R.K.Ahooja, Member(A) 23

New Delhi, this the 5th day of November, 1999

1. Manohar Lal
s/o Sh. Hira Lal
r/o J-26, Tarjit Camp, Khicadipur
Delhi - 91.
2. Suresh Chand
s/o Sh. Munish Lal
r/o Vill. Firozepur
Distt. Bulandsehar(UP).
3. Ram Kumar
s/o Sh. Kedar Singh
4. Mewa Lal
s/o Sh. Nanoo Ram
r/o C/o T-98, Q.No.4, Ram Bagh
Shakur Basti
New Delhi.
5. Sumer Singh
s/o Sh. Chitter Singh
r/o Vill. Balana
P.O. Mandi
Tesh. Panipat (Har.). ... Applicants

(By Shri Yogesh Sharma, proxy counsel of Shri
V.P.Sharma, Advocate)

Vs.

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
Delhi Division
Near New Delhi Railway Station
New Delhi. ... Respondents

(By Shri R.P.Agarwal, Advocate)

O R D E R (Oral)

The applicants, five in number, claim that they have worked as Casual Labour with the Railway Department in Delhi Division of Northern Railway for various periods between 1982 to 1985. Their grievance is that their names have not been included in the Live 02

24

Casual Labour Register and that those with lessor length of service have been re-engaged on regular basis by the respondents.

2. The respondents, in the reply, have raised three objections. Firstly, they have submitted that the claim of the applicants is time barred. Their second contention is that the applicants were not engaged with the permission of the competent authority and their engagement was thus ab-initio void. Their third contention is that Applicants No.3, 4 and 5 either have not worked at all or their services were of such a short period ~~therefore~~ they were not entitled to have their names included in the Live Casual Labour Register. The learned counsel for the respondents further submits that Applicants No.2 and 5 also do not come within the territorial jurisdiction of this Tribunal as they are permanent residents of Firozepur and Panipat respectively.

3. Heard the learned counsel for the parties. As regards the objection of the respondents in regard to limitation, in various earlier judgments in which I was also a party, this Tribunal has decided that though limitation will not apply, the relief granted will be moulded according to the time frame in which the applicants ~~will~~ approach this Tribunal. A similar view has also been taken in regard to the objection raised by the respondents regarding appointments made without the permission of the authority authorised by the Railway Board would be void ab-initio. It has been held by the Tribunal that the applicants in such cases cannot be expected to make enquiries as to

whether the person who had appointed them was authorised by the Railway Board or not. In such a case, if no action has been taken by the authority against the persons, who had made these appointments, in contradiction of the instructions of the Railway Board, it has to be presumed that the necessary relaxations have been granted by the respondents. In regard to ^{the} third objection of the respondents, I find that Applicant No.4 and 5 have rendered less than 120 days service and therefore in terms of Para 179 (xiii) of Indian Railway Establishment Manual, they are not entitled to have their names in the Live Casual Labour Register. In regard to Applicant No.3, the respondents have stated that the experience certificate submitted by him is not ^{an} genuine one. The learned counsel for the applicants clearly states that Applicant No.3 can submit the necessary particulars to the respondents and subject to their satisfaction his case should also be decided by the respondents.

4. In regard to the question of territorial jurisdiction the learned counsel for the applicants also points out that the Live Casual Labour Register has to be maintained under the orders of the DRM, Delhi Division and therefore the Principal Bench has jurisdiction in respect of the claim of Applicants No.2 and 5.

5. In the result, the OA is partly allowed. The respondents are directed to include the name of Applicants No.1 and 2 in the Live Casual Labour Register and on that basis to consider them for re-engagement and regularisation in accordance with

h

(26)

the Circular dated 28.8.1987 (Annexure-A-2). However, it is made clear that Applicants No.1 and 2 will have no claim for preferential treatment with regard to those whose names have already been included in the Live Casual Labour Register and who have been, on that basis, re-engaged and regularised.

6. In respect of Applicant No.3, he will make a representation to the respondents and submit such proof as may be required. The respondents will thereafter take further action on the basis of their assessment of the proof produced by Applicant No.3 in support of his previous engagement.

7. The OA is disposed of as above. No costs.

R.K.Ahooja
(R.K.Ahooja)
Member(A)

/rao/