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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 708/98

New Delhi this the 14th Day of ~~January~~^{February} 1999.

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

Shri Makhan Lal,
Son of Shri Ram Sa
Ex Casual Labour
Railway Station Dhamora
Distt. Moradabad.

Residential Address:
C/o Shri Jagdish Pal,
H.No. 0114 Geeta Enclave,
Vani Vihar/Uttam Nagar,
New Delhi.

Applicant

(By Advocate: Shri G.D. Bhandari)

-Versus-

1. Union of India through
The General Manager
Northern Railway Hq. Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Moradabad.

Respondents

(By Advocate: Shri R.L. Dhawan)

O R D E R

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

The applicant claims that he had worked as a Fog Porter under Station Master, Northern Railway, Dhamora on daily wages for a period of 60 days up to 22.1.1982. He further claims that he worked as a Hot Weather waterman on casual basis at Dhamora in March 1983 about a period of five months and again in 1989 for some period. On the strength of these claims the applicant states that he should be deemed to have acquired the temporary status. Further, he is aggrieved that his name was not placed on the casual live labour register and he was not offered

(10)

re-engagement and regular appointment even though his juniors were screened and given regular appointments in 1997.

2. The respondents controvert the claim of the applicant. They say that the records of casual labour Hot Weather Waterman is not available for the period referred to by the applicant. As regards applicant's claim to have worked as Hot Weather Waterman, the respondents state that as per available records his name does not figure in the list of casual labours engaged for these periods. The respondents also point out that the applicant has not produced the casual labour card which is issued to all casual labours so that entries could be made for various periods for which the bearer of the card has rendered service.

3. I have heard the counsel. Shri G.D. Bhandari, learned counsel for the applicant submits that the responsibility for maintaining the casual labour register devolves upon the respondents and it was for them to maintain the relevant record of the casual labourers. Learned counsel argued that the respondents cannot take the plea that applicant's name is not in the records as they have given an evasive answer that applicant's name does not figure in the "available" records; they have not specified whether they mean the "complete" records or only some records. Shri Bhandari also relied on the judgement of this Tribunal in O.A. No. 2546/97, Dalip Chand Vs. Union of India in which it

11

(11)

was held that a casual labour who have rendered service with the railways have a preferential claim over juniors and outsiders.

4. The learned counsel for the respondents, Shri R.L. Dhawan, relied on various judgements of the Tribunal in O.A. No. 1568/91 Ram Phal Vs. Union of India and others; O.A. No. 784/97 Dal Chand Vs. Union of India & Ors; O.A. No. 664/95 Tulsi Ram Vs. General Manager, Northern Railway and Ors. and O.A. No. 1958/92 Nihal Singh Vs. Union of India & Ors., wherein the claims of the applicants who had approached the Tribunal after long interval subsequent to their retrenchment had been rejected on the grounds of limitation.

5. I have considered the matter carefully. The applicant has not been able to establish that he has even worked as casual labour continuously for 120 days. He has produced copies of two certificates regarding his engagement as Fog Porter long back one by the Station Master and the other on behalf of the Divisional Manager. Neither of the certificates appears to be in the proper form. If the applicant wanted to approach the Tribunal with a claim on the basis of his engagement 16 years earlier, he should have produced better evidence; the respondents cannot be expected to change their retention schedules and retain old records merely because some claim may appear at some distant point of time. The best evidence for the applicant would have been the casual labour card. According to the learned counsel for the applicant, the same could not be obtained, as according

(P)

(12)

to the applicant the casual labour blank card were not available at the station at the relevant time. If the applicant sits over his claim for such a long period, he has to suffer the consequences of the relevant records being no longer available with the authorities. In case of his alleged engagement as Hot Weather Waterman, there is no evidence whatsoever produced by the applicant. The respondents deny such an engagement. In case of such a delayed claim, the Tribunal cannot order a roving inquiry into all kinds of records to see whether the applicant's claim has any basis. As no *prima facie* case has been made out by the applicant, I am inclined to accept the version of the respondents that as per available records, the name of the applicant does not figure in the list of casual labour engaged as Watermen during the relevant period. As the applicant is not able to make out a case, may be because of the time lag in his approaching the Tribunal, I am not inclined to consider the relief sought for by him.

The O.A. is accordingly dismissed. No order as to costs.

R.K. Ahuja
(R.K. Ahuja)

Member (A)

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