

Central Administrative Tribunal
Principal Bench

O.A.No.821/98

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

New Delhi, this the ~~6~~ ¹⁰ day of February, 1999

Lakhi Singh
s/o Sh. Malkhan Singh
r/o RA-217, Chaurasia Pan Bhandar
Data Chhatri Wala Marg
Rajnagar-I
Palam Colony,
New Delhi - 45. ... Applicant

(By Shri U.Srivastava, Advocate)

Vs.

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
New Delhi.
3. The Senior Divisional Personal Officer
P-5 Branch, D.R.N.Office
New Delhi.
4. The Permanent Way Inspector (PWI)
Northern Railway
(Broad Gauge Line Rohatak-Bhiwani)
Rohatak(Haryana). ... Respondents

(By Shri B.S.Jain, Advocate)

O R D E R

The applicant claims to have worked as Casual Labour under Station Master, Kalanaur between 17.11.1979 to 10.1.1983 though the respondents state that he had worked under PWI(C), Bhiwani between 14.10.1979 to 14.1.1982 for a total of 666 days in broken spells. The applicant further claims that under the relevant Scheme, Annexure-A2 dated 28.8.1987 he is entitled to have his name placed on the Live Casual Labour Register and to be offered re-engagement and regularisation in accordance with his seniority. He states that in 1990 he was

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summoned for a screening and medical test. His various documents were also taken from him and he was told that he will be called up in due course. However no further communication was sent to him. Aggrieved by the inaction of the respondents and relying on various similar cases in which the relief was granted in similar circumstances, he has come before the Tribunal seeking direction to the respondents to consider him for re-engagement in preference to his juniors and to determine his seniority position in the Live Casual Labour Register.

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2. As already stated the respondents admit that applicant had worked under PWI(C), Bhiwani for 666 days between 14.10.1979 to 14.1.1982. They however state that thereafter the applicant left the job of his own accord. They also deny that he was ever summoned for a screening or medical test.

3. Shri B.S.Jain, Learned counsel for the respondents has argued that since the applicant left the work of his own accord, he is not entitled to the benefit of the Scheme, Annexure-A2. On instructions from the Bench an additional affidavit had also been filed reaffirming that the applicant had never been called for screening or medical test. The learned counsel for the respondents also raised the plea of limitation as the applicant has come before the Tribunal in 1998 though he had been out of employment from January, 1982.

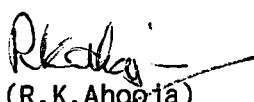
4. As already decided in number of cases, including OA No.1606/97, Raj Kumar and Others Vs. Union of India and Others and OA No.1057/92, Shri Suddan Parsad and Another Vs. Union of India and Others, in such cases

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limitation would not normally apply as there is a fresh cause of action every time a junior is re-engaged and regularised in service though the relief to be granted will have to be modulated in terms of the time frame in which the aggrieved person approaches the Tribunal. The circumstances would however be different where the applicant leaves the work of his own accord since he would then have no claim to have his name in the Live Casual Labour Register and there would be no recurring cause of action if any one from that Register junior to him is appointed. The applicant claims that he was retrenched on completion of work. On the other hand, the respondents claim that he left of his own accord. They have also categorically denied that the applicant was ever called for medical and screening test. In my view, the delay in approaching the Tribunal itself raises a presumption against the applicant since a retrenched employee is less likely to wait such a long period as 16 years to seek his relief before the Tribunal. The applicant has not been able to give any proof that he was summoned for the medical and screening test. Therefore, there is no reason to doubt the version of the respondents.

(V2)

5. In the light of the above discussion, the OA is dismissed on the ground of limitation. There shall be no order as to costs.


(R.K. Ahuja)
Member(A)

/rao/