

(63)

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

O.A. Nos. 706/96, 1704/98, 32/95, 1033/98, 2137/98,  
939/99, 208/99 and 1863/98

New Delhi, this the 6<sup>th</sup> February, 2001

HON<sup>BLE</sup> MR. KULDIP SINGH, MEMBER (JUDL)

QA 706/96

Shri Mahabir S/o Shri Mauz Ram  
ex. Casual Khallasi under IOW  
Northern Railway,  
Rohtak  
R/o Village and P.O. Karori  
District Rohtak.

...Applicant

Versus

U.O.I. Through

1. The General Manager, Northern Railway  
Baroda House, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi.
3. The Inspector of Works,  
Northern Railway,  
Rohtak.

...Respondents.

QA 1704/98

Shri Karam Singh S/o Sh. Lakshman Singh  
Ex. Hot Weather Waterman  
Under Inspector of Works  
Northern Railway, Sabzi Mandi, Delhi.  
R/o BB-Gukula Vihar, Vijay Vihar,  
Delhi-110 081.

...Applicant

Versus

U.O.I. Through

1. The General Manager, Northern Railway  
Baroda House, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi.
3. The Station Superintendent,  
Northern Railway,  
Delhi Jnc.

...Respondents.

QA 32/95

Shri Jyoti Parsad S/o Sh. Jai Narain  
Ex. Casual Labour under PWI  
Northern Railway, Khurza Junction.

...Applicant

k

64

Versus

U.O.I. Through

1. The General Manager, Northern Railway  
Baroda House, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway, Allahabad.
3. The Permanent Way Inspector, Northern Railway,  
Khurza. Jnc. ..Respondents.

QA 1033/98

1. Shri Ramesh Chander S/o Shri Mirachi Lal  
Ex. Casual Gangman  
Under Chief Permanent Way Inspector,  
Northern Railway, Bareilly Jnc.
2. Shri Bhajan Lal S/o Shri Babu Ram  
Ex. Casual Gangman  
Under Chief Permanent Way Inspector,  
Northern Railway, Bareilly Jnc.
3. Shri Ram Nath S/o Shri Ram Barose Lal  
Ex. Hot Weather Waterman Under Station Master,  
Northern Railway,  
Bhitaure. ...Applicants

Versus

U.O.I. Through

1. The General Manager, Northern Railway  
Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway,  
Moradabad. ...Respondents.

QA 2137/98

Shri Devari Lal R/o H.No. 860-A Gali No.2, Durga Mandir,  
Jwala Nagar, Delhi Shahdara-32. ....Applicant.

Versus

U.O.I. Through

1. The General Manager, Northern Railway  
Baroda House, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
Allahabad. ...Respondents.

QA 939/99

Shri Hari Ram S/o Sh. Ghasi Ram  
R/o House No.4/20 Gali No.8,  
Harijan Basti, New Rohtak Road, Daya Basti,  
New Delhi. ...Applicant

Versus

U.O.I. Through

1. The General Manager, Northern Railway  
Baroda House, New Delhi.

ku

2. The Divisional Railway Manager,  
Northern Railway,  
State Entry Road,  
New Delhi. ..Respondents.

OA 208/99

Shri Ram Sewak S/o Shri Sri Chand  
R/o C-6, Ranvir Singh Yadav,  
396/11, Palam Colony,  
Raj Nagar-II, New Delhi. ...Applicant

Versus

U.O.I. Through

1. The General Manager, Northern Railway  
Baroda House, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway,  
Allahabad. ..Respondents.

OA 1883/98

Shri Satish Kumar S/o Shri Karam Chand  
Ex. Casual Safaiwala  
under Sr. Health Inspector  
Northern Railway,  
Shakurbasti, Delhi  
R/o D-141/B, Budhvihar,  
Delhi-110 041. ...Applicant

Versus

U.O.I. Through

1. The General Manager, Northern Railway  
Baroda House, New Delhi.
2. The Divisional Railway Manager,  
Northern Railway, State Entry Road  
New Delhi.
3. The Sr. Health Inspector,  
Northern Railway, Shakurbasti,  
Delhi. ..Respondents.

Shri B.S. Mainee, Counsel for the applicants in all the  
OAs except in OA 939/99.

None for the applicant in OA 939/99.

Shri R.L. Dhawan, Counsel for the respondents in OA  
Nos. 706/96 and 1033/98.

Sh. B.S. Jain, Counsel for respondents in OA Nos. 1704/98,  
2137/98, 939/99, 208/99 and 1883/98.

Shri N.K. Aggarwal, Counsel for respondents in OA 32/95.

*K*

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (Judl)

By this order I will decide the O.A. Nos. 706/96, 1704/98, 32/95, 1033/98, 2137/98, 939/99, 208/99 and 1838/98, which raise common question of law and facts.

OA No. 706/96

2. Brief facts in this case are that the applicant claims that he had worked as a casual labourer during the period from 30.7.74 to 31.7.88 with certain breaks. Thereafter he has not been re-engaged. As such he has prayed for a direction to the respondents to keep his name in the Live Casual Labour Register and to re-engage him.

OA No. 1704/98

3. In this case the applicant claims that he was engaged as a casual safaiwala under the Northern Railway, Shakurbasti where he worked for 72 days from 5.9.83 to 25.8.85 with intermittent breaks and total number of days works out to 72. Thereafter he was re-engaged during the period 25.4.86 to 31.7.88 and worked for about 416 days as per Annexure A-2 and then for 88 days during 4.5.89 to 31.7.89. In his OA he has prayed that the respondents be directed to re-engage the services of the applicant after placing his name on the Live Casual Labour Register.

*kn*

61

QA No.32/95

4. In this case the applicant claims that during the period 23.6.79 to 5.12.1981 he had worked for a total number of 212 days with intermittent breaks and has prayed that the respondents be directed to re-engage his services after placing his name on the Live Casual Labour Register.

QA No.1033/98

5. This is a joint application filed by three applicants. Ramesh Chander, applicant No.1 has claimed that he had worked from 1.1.1982 to 14.7.82 for 167 days with intermittent breaks, Bhajan Lal, applicant No.2 from 12.9.78 to 16.6.84 for 275 days with intermittent breaks and Ram Nath, applicant No.3 from 7.5.79 to 31.8.79 for 116 days and thereafter from 1.1.80 to 25.2.80 for 45 days. They have, therefore,, prayed that the respondents be directed to re-engage their services as casual labourers after registering their names on the Live Casual Labour Register.

QA No.2137/98

6. In this case the applicant claims that he had worked as Hot Weather Waterman from 18.5.84 to 14.8.91 for 648 days with intermittent breaks and has prayed that the respondents be directed to re-engage him in service

A

68

after correctly placing his name on the Live Casual Labour Register in accordance with the actual number of working days.

OA No. 939/99

7. In this case the applicant claims that he made an application in the year 1987 to the respondents for his engagement. In response thereto he was issued an interview letter to appear for interview on 17.6.87. for the post of category 'D' in the pay scale of Rs.750-940 against shortfall of SC and ST under crash programme. After appearing in the interview, he waited for engagement but the respondents did not communicate any order to the applicant. He again represented on 22.6.89 for engaging him as Safaiwala but to no avail. By this OA, he has prayed that the respondents be directed to re-engage him in accordance with the seniority fixed on the basis of total number of working days he had rendered as casual labourer as prescribed by Railway Board's instructions issued from time to time and also for inclusion of his name in the Live Casual Labour Register and regularise him in accordance with the Railway Board's instructions.

OA No. 208/99

8. In this OA applicant claims that he was engaged as casual labourer on 2.5.77 and worked for 16 days in the year 1977 and for 25 days in the years 1978. He was again engaged as casual labourer waterman on 3.5.86 and worked upto 14.8.86 for 104 days. In the year

*h*

1987 he worked from April to August for 122 days. Thereafter he was again engaged from 1.5.88 and worked upto 14.8.91 for 680 days with intermittent breaks. In this case applicant has prayed that the OA be allowed and respondents be directed to re-engage the services of the applicant and regularise him because he had already been screened and persons junior to him had already been re-engaged and regularised. He has also prayed that respondents be directed to extend the benefit of the judgment in the case of Nehal Singh & Others Vs.U.O.I. & Others (OA 1821/92) because that case was filed by the colleagues of the applicant which was allowed.

OA No.1883/98

9. In this case applicant claims that he had worked as a casual Safaiwala from 16.11.82 to 9.12.82 and thereafter from 29.12.1983 to 19.2.86 and worked for 465 days. He was disengaged on the ground that there was no work. Applicant had also acquired temporary status after having worked for more than 120 days. It is further stated that respondents have made appointment in 1997 of casual Safaiwalas but applicant has not been considered. Hence it is prayed that the respondents be directed to re-engage the services of the applicant as Safaiwala after placing his name in the Live Casual Labour Register in the order of his seniority particularly in view of the fact that a large number of Safaiwalas have been appointed while applicant has not been considered.

*h*

10. Respondents are contesting the OAs. They pleaded that this matter had been decided by the Full Bench and it has been held therein as to how the bar of limitation is applicable for placing the name of the applicants in the Live Casual Labour Register. Accordingly all these case are hit by limitation and are not maintainable.

11. I have heard the respective counsel appearing for the parties.

12. At the outset I may mention that out of these OAs except OA 1838/98 all other OAs were the subject matter of the Full Bench reference on which the judgment was delivered on 10.5.2000. As far the relevant facts with regard to the limitation are concerned, a reference was made to the Full Bench which shows that on the point of limitation the following question was referred to the Full Bench:-

" (a) Whether the claim of a casual labourer who has worked prior to 1.1.1981 or thereafter with the respondents i.e. Railway Administration has a continuous cause of action to approach the Tribunal at any time, well after the period of limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985, to get a direction to have his name placed on the Live Casual Labour Register; in other words, whether the provisions of the relevant Railway Board circulars for placing his name in the LCL Register gives him a continuous cause of action".

*Ar*



13. The Hon'ble Full Bench after considering the rival contentions and going through the various judgments on the issue answered the question in the following manner:-

"18. In the light of the foregoing discussion we answer the aforesaid issue (a) as under:

Provisions of the relevant Railway Board's circular dated 25.4.1986 circular dated 28.8.1987 issued by General Manager, Northern Railway for placing the names of casual labour on the live cause labour register do not give rise to a continuous cause of action and hence the provisions of limitation contained in Section 21 of the Administrative Tribunals Act, 1985 would apply".

14. In this background I have heard the learned counsel for the parties and have gone through the record. The learned counsel appearing for the applicant simply submitted that since a Writ Petition has been filed against the decision of Full Bench preferred before the Hon'ble High Court and notices have been issued so he requested that the cases should be adjourned awaiting final directions given by the Hon'ble High Court. This request was opposed by the respective counsel appearing on behalf of the Railways and stated that since the question of limitation has already been decided by the Full Bench so there is no need to further adjourn the case and the court should pass an order as per the law interpreted by the Full Bench and the same should be applied to the present cases and in case the facts of the cases shows that the cases have been filed beyond the period of limitation so the OAs should be dismissed on the point of limitation alone.

hu

15. The learned counsel for the applicant after finding the strong opposition submitted the arguments on the point of limitation and stated that in the case of Sheesh Pal and Others Vs. U.O.I. & Others the Hon'ble Delhi High Court had held that the case of action is a continuous one and the petition should not have been dismissed on the ground of delay and the case should be remanded back to this court and whereby this court allowed the OA and held that since the plea of limitation had been negatived by the Hon'ble High Court so the OA in the case of Sheesh Pal & Others was allowed. Thus the counsel for the applicants submitted that since junior employee to the applicants have been engaged so the cause of action arises from the day when the juniors were engaged. So on the basis of the facts stated in each of the OA it is to be seen rather than dismissing all the OAs by an omnibus order holding that each case is barred by time.

16. On the contrary the counsel for the respondents submitted that as per the circulars issued by the Railway Department from time to time the applications were invited for enlisting the retrenched casual workers in a Live Casual Labour Register so that they may be provided jobs as per the order of seniority. The enlisting of the name on the LCLR was to be done within a stipulated period and thereafter the job was to be provided on the basis of seniority as maintained as per the LCLR. Since the applicants had not applied in time for enlisting their names within the stipulated period in the Live Casual Labour Register, their names had not been enlisted and had they any grievance, then they could have

*h*

approached the court within the period of limitation as provided under Section 21 of the AT Act but not beyond that period.

17. The counsel for the respondents further submitted that in all these OAs the applicants have prayed for enlisting their names in the LCLR and then providing them job and this enlisting of the name has become time barred.

18. I have given my thoughtful consideration to the question involved as per the contentions raised by rival parties. I find that to appreciate the relevant position as to in what cases the OAs are hit by limitation, we have to go through the relief claimed in the each OA as per the allegations contained in the OAs. In case the applicants are aggrieved of for refusal to be enlisted in the LCLR then it has to be seen whether the applicants had applied in time to the Railway Authorities and if on their refusal the applicants had approached the court within the period of limitation as provided under Section 21 of the AT Act.

19. The second aspect of the case can be if the applicants has been refused to be re-engaged and his juniors or freshers had been engaged in preference to him then what should be the stage to approach the court. In this regard I may mention that as per the question answered by the Full Bench referred to above (Supra) all the controversies had been settled as the Hon'ble Full Bench had observed that as far the placing of the names of the casual labour in the Live Casual Labour Register

*h*

is concerned that does not give rise to a continuing cause of action and the provisions of limitation as contained in Section 21 of the A.T. Act would apply. In view of this observation we will have to examine facts in each of the OAs.

20. As far as OA 706/96 is concerned the applicant has prayed for a direction to the respondents to get his name enlisted in the Live Casual Labour Register and to re-engage him and he has also alleged that he had worked for the period 30.7.74 to 31.8.88 which means that when the Circulars dated 25.4.86 and 28.8.87 were issued the applicant was working with the respondents and he should have insisted at that very time for being enlisted on the Live Casual Labour Register and he had approached this court only in the year 1996 and no detail of any representation made by him to the department has also been given though he has annexed a copy of the representation but that also does not give any date as to when it was made nor there was any evidence to show that it was received by the department at any point of time and at best it can be said that the applicant had approached the department in 1996 when he had filed the OA which goes to show that the case of the applicant is grossly hit by limitation as per the law laid down by the Hon'ble Full Bench.

21. As far as OA 32/95 is concerned it is stated that the applicant had worked for 212 days till 5.12.1981 with intermittent breaks. He has filed the present OA

only on 2.1.1995 for getting his name enlisted on the Live Casual Labour Register which is clearly hit by limitation.

22. With regard to OA 939/99 is concerned it is stated that the applicant had worked for 680 days with intermittent breaks. He has filed the present OA only on 19.4.99 for getting his name enlisted on the Live Casual Labour Register which is clearly hit by limitation.

23. As far as OA 208/99 is concerned it is stated that the applicant had worked for 680 days till 14.8.91 with intermittent breaks. He has filed the present OA only on 27.1.1999 for getting his name enlisted on the Live Casual Labour Register which is clearly hit by limitation.

24. As regards OA 1704/98 is concerned it is stated that the applicant had worked for 416 days till 31.7.89 with intermittent breaks. He has filed the present OA only on 1.09.1998 for getting his name enlisted on the Live Casual Labour Register which is clearly hit by limitation.

25. As far as OA 2137/98 is concerned it is stated that the applicant had worked for 648 days till 41.8.91 with intermittent breaks. He has filed the present OA only on 3.11.1998 for getting his name enlisted on the Live Casual Labour Register which is clearly hit by limitation.

Ku

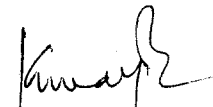
76

26. In OA No. 1033/98 all the three applicants had worked for certain periods. Applicant No.1 had worked 167 days till 14.7.82 with intermittent breaks, applicant No.2 for 257 days till 16.6.84 with intermittent breaks and applicant No.3 for 116 days in the first spell and 45 days in the second spell till 25.2.80. He has filed the present OA only on 20.5.98 for getting his name enlisted on the Live Casual Labour Register which is clearly hit by limitation.

27. OA 1883/98 was filed by the applicant claiming that he had worked for 456 days upto 19.2.86 within intermittent breaks. He has filed the present OA on 23.9.98 for getting his name enlisted on the Live Casual Labour Register which is clearly hit by limitation.

28. In view of the discussion above, all the OAs are dismissed. No costs.

Let a copy of this order be placed in O.A. Nos.706/96, 1704/98, 32/95, 1033/98, 2137/98, 939/99, 208/99 and 1838/98.

  
( KULDIP SINGH )  
MEMBER(JUDL)

/Rakesh