

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

HON. SHRI R.K. AHOOJA, MEMBER 'A'

(9)

D.A. NO. 1335/1996

NEW DELHI, THIS 6th DAY OF MAY, 1997

SHRI RAJENDRA
S/o Lt. Shri Ram Swarup
Vill. & PO Godha
Tehsil Kal
Distt. Aligarh
U.P.

..APPLICANT

'By Advocate - None'

VERSUS

1. Union of India, through
Through The General Manager
Northern Railway
Baroda House
NEW DELHI

2. The Div. Railway Manager
Northern Railway
Allahabad

3. The Permanent Way Inspector (PWI)
Northern Railway
Aligarh

..RESPONDENTS

'By Advocate - Shri B.S. Jain'

ORDER

L.G.Y
The applicant was engaged as casual labour under PWI, Northern Railway, Aligarh, on 14.1.1981 and worked as such up to 14.2.1983 for a total of 700 days. Certificate to that effect issued by respondent No.3 has been annexed as A-1. The applicant submits that his services were terminated without giving any notice even though as per rules of Railways, he had acquired temporary status. The Railway Board had issued letters of 4.9.1980 and 22.10.1980 that preference should be given to those who have already worked

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for more days as Casual labour 'CL' whenever work is available.

Further, vide Railway Board circular No.E/NG/II/CL/2 dated 25.4.86, it was decided that the name of each casual labour who had been discharged at any time after 1.1.1981 on account of completion of work or for want of further productive work should continue to be borne on the live casual labour 'LCL' register. The grievance of the applicant is that despite these instructions, the representations made by him including the one on 22.5.95 has not been considered and neither his name has been taken on the LCL register nor has he been provided any engagement despite engagement of his juniors.

2. The respondents in reply admit only that the applicant worked from 16.11.80 to 14.1.81. They deny that he ~~from~~ worked 16.1.81 to 14.2.83. Further they state that the applicant was not discharged but left service on his own and had also taken his casual labour card and thus it was not possible to enter his name in the LCL register. He never approached the respondents again for including his name in the register. Since he has filed this O.A. in 1996 after leaving service of the respondents in January 1981, his case is squarely time barred.

3. I have heard the 1d. counsel and also gone through the pleadings on record. Shri Maine, counsel for the applicant, submits that the case of the applicant is covered by a ~~series~~ of judgements, including one of MITIHAJ_LAL_VS_UOI_OA_NO.1220/91 delivered on 16.3.1981, GHULAM_AHMED_VS_UOI_OA_NO.2306/92 dated 12.5.92 and NET_RAM_VS_UOI_OA_NO.2441/91 dated 26.5.94. He pointed out that A-1 has been issued by the PWI Aligarh which shows the engagement of the applicant right upto 1983. Shri B.S. Jain, 1d. counsel for the respondents, relies on the Supreme Court judgement in

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SC 418 wherein it was held that delay deprives the person of the remedy available in law and a person who has lost his remedy by lapse of time loses his right as well. Shri Jain pointed out that in that case also the applicants were casual labour in Railways and claimed to have worked for various periods but had approached the court after a long time. He argued that in the present case also, there is a delay of 5 years and therefore this case is covered by the ratio of judgement in Ratam Chandra Sammanta 'Supra'. He also cited the case of CENTRAL BANK VS. S. SATYAM & ORS. 1996/3 SLJ SC 1 wherein it was held that laches are a material flaw where the claim for 1982 was filed in 1992.

3. ✓ I have carefully considered the matter. I do not agree with the ld. counsel for respondents that the present case is covered by the ratio of Rattam Chandra Sammanta and Central Bank cases 'Supra'. The claim of the applicants in Rattam Chandra was that they had been engaged upto 1979. The court had observed that the representation of the applicants gives no detail and was lacking in material particulars. It was also observed that the court would have been persuaded to take a sympathetic view but in absence of any positive material to establish that those petitioners were in fact appointed and working as alleged by them, it would not be proper exercise of discretion to direct the opposite parties to verify the correctness of the petitioners' statement. In the present case, however, A-1, a copy of certificate issued by PWI Aligarh is annexed. Further more, the respondents themselves admit that the applicant had at least worked for some days. Thus there is sufficient evidence to support the claim of the applicants for having worked with the

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respondents. As for the submission of respondents that the applicant had of his own accord left the job, nothing has been produced before me to show whether any notice was issued to him by the respondents. In view of this position, the objection of the respondents cannot be sustained.

4. In the facts and circumstances of the case and in view of the above discussion, I conclude that this case also falls within the ratio of Net Ram (Supra). The O.A. is disposed of with a direction to respondents that in case the applicant makes a representation to them along with whatever documentary proof he has of his engagement with them, the same will be verified by the respondents within a period of three months thereafter, to include his name on the live casual labour register and consider him for re-engagement and regularisation in accordance with Railway Board rules and instructions.

5. The O.A. is disposed of accordingly. No costs.

R.K. Ahuja
(R.K. AHUJA)
MEMBER (A)

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