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Central Administrative Tribunal, Principal Bench

O.A.No.1821/96

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

New Delhi, this 30th day of June, 1997

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Bharat Singh
s/o Shri Banwari
r/o c/o Ashok Contractor
H.N.F/117 Sadh Nagar-II
Gali No.40, New Delhi - 45. Applicant

(By Shri Yogesh Sharma, proxy 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
Bikaner(Raj.)
3. The Assistant Engineer
Northern Railway
Rewari(Haryana). Respondents

(By Shri R.L.Dhawan, Advocate)

O R D E R

The applicant claims that he was engaged as Casual Labourer in the year 1984 along with more than 100 persons and posted under PWI, Charkhi Dadri. All such casual labourers were disengaged after January, 1985 on completion of the work. The applicant along with others was also medically examined and declared fit. The Railway Board vide their Circular dated 11.9.1986 issued in pursuance to Supreme Court's Judgment in the case of Inder Pal Yadav Vs. Union of India and Others had directed that all the casual labour who had worked after 1.1.1981, their names should be included in the Live Casual Labour Register automatically. The applicant thus had also a right to have his name in the Live Casual Labour Register but persons similarly placed and juniors to him had been re-engaged on the basis of their names

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having been included in the Live Casual Labour Register. The same facility had been however denied to him. The applicant also cites a number of judgments of this Tribunal in which the persons who were engaged with him on the same work of Chowkidar had approached this Tribunal and were granted the reliefs by way of directions to the respondents to consider their cases for inclusion in the Live Casual Labour Register and for the re-engagement in their turn.

2. The respondents have filed a reply. They state that the application is barred by limitation since it has been filed in the year 1996 after a lapse of 11 years. They also deny that the applicant is entitled to the benefit of the circular dated 11.9.1986 since he had left the job on his own accord and such cases were not to be included in the Live Casual Labour Register.

3. I have heard the learned counsel on both sides. I do not agree with the above contention of the learned counsel for the respondents that the case of the applicant is barred by limitation in terms of Ratam Chandra Sammanta and Others Vs. UOI & Others, JT 1993 (3) SC 418. The issue before the Supreme Court in the aforesaid case related to Casual Labour who had been employed between 1964 to 1969 and were retrenched between 1975 to 1979. Such cases did not come within the ambit of the scheme formulated by the respondents vide their circular dated 28.8.1987, a copy of which has been annexed to OA as well as the reply of the respondents. According to that circular, in the case of all casual labour discharged after 1.1.1981 their names are to be continued on the Live Casual Labour Register

indefinitely. There was thus no requirement for the applicant to make any representation and he has thus a recurring cause of action every time a vacancy arises and a junior on the Live Casual Labour Register, is engaged by the respondents.

4. The other contention of the respondents that the applicant having left the employ of the respondents on his own accord, he is not covered by the circular of the 1986/1987 also does not carry any weight. The respondents themselves state in their reply that the applicant along with others had been engaged in extraordinary circumstances for a short period for patrolling of track necessitated due to circumstances obtaining then on account of the assassination of the then Prime Minister of India, Smt. Indira Gandhi. The respondents had also obtained a declaration from the applicant that he would have no right to claim temporary/permanent ^{leave} on the post of his engagement. It appears from the judgment of this Tribunal in OA No.167/97 (a copy of the same is annexed with the rejoinder) that more than 100 casual labourers were engaged and posted under PWI, Charkhi Dadri and all the casual labourers were disengaged in January, 1985. It is thus apparent that the applicant was discharged on completion of the work and he along with others was discharged once the situation had become normal and the respondents did not consider it any longer necessary to undertake patrolling of track. The respondents can therefore no more claim that the applicant had left the work on his own accord in the present case than in respect of the applicants in OA No.167/97.

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5. In view of the above position it is clear that the application is neither barred by limitation nor defeated by the allegation that the applicant had left the work on his own accord. On the ~~controversy~~ ^{consideration} applicant's case, is squarely covered by the circular dated 11.9.1986/28.8.1987. However, the relief to be granted is to be moulded in the time frame in which he has approached this Tribunal. The OA is accordingly disposed of with the directions that the respondents should include the name of the applicant in the Live Casual Labour Register and consider him for re-engagement against any future vacancy in preference to his juniors and outsiders in terms of Circular dated 11.9.1986/28.8.1987. No costs.

R.K.A Rao
(R.K.AHOOJA)
MEMBER(A)

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