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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA NO.750 OF 1996

DATED NEW DELHI, THIS 20TH DAY OF FEBRUARY, 1997

HON'BLE MR K. MUTHUKUMAR, MEMBER(A)

Vikram Singh
124, Shah Jada Bagh
Inderlok
DELHI-35

... Applicant

By Advocate: Ms Raman Oberoi

versus

Union of India, through

1. The General Manager
Northern Railway
Baroda House
NEW DELHI.
 2. Divisional Railway Manager
Northern Railway
MORADABAD.
 3. Assistant Engineer
Northern Railway
Hapur
MORADABAD.
 4. PWI Amroha/GMS
Northern Railway
Hapur
MORADABAD.
- ... Respondents

By Advocate: Shri R. L. Dhawan

O R D E R (ORAI)

Mr K. Muthukumar, M(A)

The applicant seeks a direction for his reengagement as casual labourer in the office of the Divisional Railway Manager, Moradabad. He was working as a casual labourer in that Division between 1977-79 in broken spells and he had not been engaged thereafter. The applicant pleads that he had prayed for reengagement by his letter dated 15.3.87 (Annexure A5) and finding that the persons who had worked with him and performed

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lesser number of days than him had been reengaged, he claims to have sent another letter dated 10.4.95 (Annexure A3).

The respondents have taken preliminary objections on the ground of limitation as well as of jurisdiction. They submit that the applicant had left the work on 14.9.79 on his own accord and as laid down by the Supreme Court in the case of Rattan Chandra Samanta Vs UOI [11 1993(3) SC.418], 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. Besides, the applicant should have filed this application in Allahabad Bench of the Tribunal and, therefore, this application is also not maintainable on grounds of jurisdiction. They have specifically denied the submission in regard to the averments made by the applicant that he had prayed for reengagement by his letter dated 15.3.87 and have stated that the applicant had not submitted any application for including his name in the Live Casual Labour Register. They have also submitted that the scheme for continuance of the names in the Live Casual Labour Register in respect of casual labourers who had left earlier to 1981 was in fact accepted upto 31.1.88. Therefore, they contend that in accordance with the instructions governing the scheme for reengagement, the applicant was not eligible to ^{have} ~~be~~ included ^{his name} ~~his name~~ in the Live Casual Labour Register as he had left the service on his own

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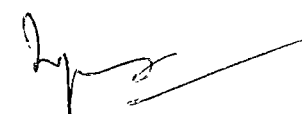
volition and also did not pray for inclusion of his name in the Register. In the light of these averments, respondents maintain~~ed~~ that this application is not maintainable on ground of limitation and this deserves to be dismissed on merits also.

The learned counsel for the applicant relies on a decision in Kesavan Nair alias Omanakuttan Vs Sub Divisional Officer Telegraphs and Ors. [SLJ 1992(?) p.312] to stress the point that the respondents had not taken any action for calling upon the employee to join duty in case he left the service of his own as alleged by them, should have been served with a notice. The applicant, having served for so long, almost 395 days, should have been served with such a notice. The question whether he had left the service of his own or whether he was disengaged is not material in this case. What is material here is whether he had attempted to avail of the remedy available to him. Further, the learned counsel for the applicant submits that excepting the letter dated 15.3.87, there is no proof of his having registered with the employer and request for renewal of his name in the Live Casual Labour Register. Since this has been denied by the respondents, it is not for the ^{by Court/Tribunal} respondents to find out and make a roving enquiry. In any case, the applicant had not shown that he had been diligent enough to pursue his matter for more than ten years. The learned counsel for the applicant submits that the cause of action is revived the

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moment the applicant came to know that his junior is engaged. This contention is not acceptable particularly in the light of the delay caused in this case and also in the light of the judgement of the Hon'ble Supreme Court in Rattan Chandra Samanta's case (supra). The learned counsel for the respondents has also stated that in view of the judgements passed in similar matters in OA. No.1958/92 and OA.No.2364/92 where in the absence of good reasons it was held by the Tribunal that it was not for the court to condone the long delay or to make a roving enquiry into the facts, relying on the aforesaid case of Rattan Chandra Samanta.

In view of the above discussions, I find no merit in this application and it is accordingly dismissed. No order as to costs.


(K. Muthukumar)
Member(A)

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