

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1622/97

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New Delhi this the 11th day of February, 1998.

Hon'ble Sh. S.P. Biswas, Member(A)

Sh. Gyananad Pal Singh,
S/o Sh. Niranjan Singh,
R/o C-2/304, Janakpuri,
New Delhi-58.

..... Applicant

(through Sh. H.K. Gangwani, advocate)

versus

Union of India & Ors. through

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

2. Sr. Civil Engineer(Construction)
SSE, Northern Railway,
Tilak Bridge, Mahabat Khan Road,
New Delhi-2.

3. Chief Administrative Officer(Constructon),
Northern Railway, Kashmiri Gate,
Delhi-6.

..... Respondents

(through Sh. O.P. Kshatriya, advocate)

ORDER(ORAL)

The factual matrix giving rise to the filing
of this original application is as hereunder:-

The applicant had worked with
respondents as casual painter from 25.10.78
to 14.10.81. He was also given temporary
status on 14.5.81 and was later on
retrenched verbally on 14.10.81. The
applicant is aggrieved because of the
respondents alleged actions in offering
jobs to several painters junior to him, the

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examples of which have been provided at page-2 of the O.A. After having been retrenched in October 1981, the applicant appears to have knocked at the doors of the respondents for several times but without any positive results. Faced with the situation of starvation, he approached the respondents vide A-3 representation dated 28.11.87 asking for job of any kind including that of a casual labour. Even that did not move the respondents to consider the case in his favour. The applicant is before us seeking relief in terms of issuance of direction to respondents to engage him in any of the services, either in category-III or in category-IV, and provide other ancillary benefits.

The respondents have denied the claims on the basis of limitation. Quoting Rule 2004 of IREM(Vol.II) 1990, the counsel argued that notice is necessary only under situations provided by the statute. No notice, however, is required for termination of service of casual labour. Their services will be deemed to have been terminated by absenting themselves or on the close of the day. The respondents would further argue that the applicant is on the live casual labour register for painters and is figuring at Serial No.15. None junior to him in the said category has since been

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engaged after 26.10.85 as indicated in Annexure A-6. The respondents have also taken the plea that he was on a project work and could not claim continuous engagement when the project was over.

The issue that falls for determination is whether a casual worker, even after having been retrenched wrongly in 1981, can legally reagitate the issue of his re-engagement either in Class-IV or Class-III category after a long period of six years.

It is not in dispute that the applicant was working as a daily wage casual painter. It is also not disputed that the first representation by the applicant was only in November 1987 after a gap of almost 6 years. The law is well settled that repeated representations do not make up the lapses of delayed actions and cannot over reach the provisions under the law of limitation. Admittedly, the applicant decided to remain silent from November 1987 till 27.7.94. The applicant had no satisfactory answer that could explain such an inordinate delay in agitating the issue. As is well settled in law, delay deprives a person not only the right but also remedy available in law. (See R.C. Samanta & Ors. Vs. UOI, AIR 1993 SC 2276).

The applicant would then argue that his claim is covered by the law laid down by the Apex Court in the case of Ghaziabad Development Authority & Ors. Vs. Vikram Choudhary & Ors. (JT 1995(5) SC 636). That was the case where their Lordships decided that the daily

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wage employees working on the projects can only be terminated on the principle of last come first go and for re-employment preference to be given to the displaced employees. The applicant herein, as per records available before us, is a displaced employee. The law laid down by the Apex Court in the Ghaziabad Development Authority case (supra), however, does not provide any protection against violations of the law of limitation. One who is aggrieved for some reasons is expected to react within the time frame laid down in law. While condoning delays, the Tribunal has to record in writing that the explanation offered for delay was reasonable and satisfactory. This is the pre-requisite for condonation of delays. The applicant has not come out with any reasons, much less good ones, on the basis of which the delay could be condoned. The application is, therefore, badly hit by limitation and deserves to be dismissed on that account.

The next question arises as to whether the applicant could be considered for re-engagement in the category of casual labour. This is because the applicant in his representation (A-3) dated 28.11.87 had asked for job of any type for the purpose of carrying livelihood. The respondents have submitted that he has never applied for engagement as casual labour. The respondents, however, submit that if the applicant applied, his case could be considered as per rules. If this be so, it would be fair and justifiable to dispose of this application with a direction to

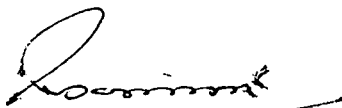
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respondents to consider the applicant's plea for re-engagement in case he comes up with a representation. The applicant is directed to make a suitable representation within a period of three weeks from the date of receipt of a copy of this order. If the applicant does so, the respondents shall consider the same sympathically in terms of rules meant for engagement of casual labourers. The applicant shall be informed suitably as regards the decision taken about his re-engagement. This shall be done within a period of 3 months after the receipt of applicant's representation.

The application is disposed of as aforesaid.

No costs.


(S.P. Biswas)
Member (A)

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