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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH.

OA No. 2844/1997

New Delhi, this 6th day of September, 2000

Hon'ble Smt. Shanta Shastry, Member(A)

Sabar Lal
RZ-311 Raj Nagar II
Palam Colony, New Delhi-45

... Applicant

(By Shri U. Srivastava, Advocate)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi
2. Divisional Railway Manager
Northern Railway, Ambala, Haryana
3. Permanent Way Inspector
Northern Railway, Bhatinda, Punjab
4. The Chief Administrative Officer(Const.)
Northern Railway, Kashmere Gate
Delhi. Respondents

(Shri R.L. Dhawan, Advocate)

ORDER

By Smt. Shanta Shastry, M(A)

In this OA the applicant has sought directions to the respondents to consider him for re-engagement as casual labour in preference to juniors and outsiders and for regularisation in accordance with rules.

2. In the grounds taken in para-5 of the OA, the applicant has stated that he worked as casual labourer from 15.1.1982 to 14.12.1982 and is entitled to get the benefits of casual labour scheme as per the principle of "last come first go". The principle has been accepted by the Railways vide para-5.1 of the Railway Board's letter dated 11.9.1986. Further the applicant submits that it has been held by the Hon'ble Supreme Court that

the persons who could not approach the court cannot be deprived of their right for re-engagement in preference to those who were engaged at a later date, in the judgement in Inderpal Yadav Vs. UOI & ors. in WP Nos. 147, 320-69, 454, 4335-4434/83. The applicant worked for more than 240 days continuously without any break. He was entitled to one month's notice or one month's pay in lieu of the notice before he was disengaged. The applicant submits that Shri Amar Singh, Shri Sat Pal and Shri Dharam Vir who were working in the same office were also disengaged on the same date as the applicant. However their OAs 2093/88 and 1947/90 being allowed, they could be re-engaged. The benefit of this judgement ought to have been extended to the applicant also. The learned counsel has cited several judgements in support that not everyone is expected to approach the court. They are entitled for the benefits of the person who approach the court.

3. Learned counsel for the respondents has taken a strong objection that the application is barred by limitation. According to the respondents, the applicant claims to have last worked in 1978 and the present application filed in 1997, after a lapse of 19 years, is barred by limitation. The Hon'ble Supreme Court have laid down the law in the case of State of Punjab Vs Gurdev Singh (JT 1991(3) SC 465 that the statute of limitation was intended to provide a time limit for all suits conceivable. Similarly in the case of P.K.Ramchandran Vs State of Kerala (JT 1997(8)SC 189)

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the Hon'ble Supreme Court have laid down the law that the law of limitation may harshly affect a particular party but it has to be applied with all its rigour when statute so prescribe and the courts have no power to extend the period of limitation on equitable ground. However the learned counsel submits further that the applicant claims to have worked in 1978 in Bhatinda which is within the territorial jurisdiction of the Chandigarh Bench. Therefore, the application has wrongly been filed in this Tribunal.

4. Apart from these preliminary objections, on merits, the learned counsel states that the applicant claims to have worked in broken periods in 1978. In terms of Railway Board's instructions circulated under Northern Railway printed sl.no.9191 and 9195 casual labours who were discharged before 1.1.1981 for want of work or on completion of work were required to submit their application together with all documentary proof of their previous working days before 31.3.1987 for the purpose of considering their claim for inclusion in the Live Casual Labour Register (LCLR, for short). The applicant though claims to have been disengaged before 1.1.1981 has not made any application accordingly. Again, in terms of para-2001(5) of IREM Vol.II the casual labours were issued a card to provide documentary proof of service. The applicant has not submitted his casual labour card which alone is the authentic document to provide proof of his service. The applicant has produced a certificate on plain paper as a proof of his

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previous service. This certificate however does not contain any file number, nor is the stamp clear on this certificate. It cannot be verified. This claim therefore cannot be accepted as a documentary proof of his previous service. The learned counsel relies on a judgment of the Calcutta Bench of the Tribunal in Prabir Sarkar Vs UOI (SLJ 1999 Vol.I,CAT 445) for this. The applicant has not been able to establish that he has ever worked as a casual labour continuously for 120 days. This Tribunal has also dismissed a number of applications of similarly situated applicants. The learned counsel has filed some judgements in the case of Tulsi Ram Vs General Manager, Northern Railway & Ors in OA.664/98, Dal Chand Vs UOI & Ors in OA.701/97, Rambir Singh & Ors vs UOI & Anr in OA.1421/98. All these OAs were dismissed.

5. The learned counsel for the applicant admits that the applicant had not given any application before 31.3.1987 as per requirements for considering him for reengagement and for placing his name in the LCLR. He however is merely seeking to be considered for re-engagement. The applicant has submitted a representation in 1997 whereas he was discharged in 1978. The learned counsel for the applicant is also relying on the judgement of the Hon'ble High Court in CWP No.5071/99 decided on 23.8.1999 in the case of Shish Pal Singh Vs UOI & Ors. wherein the hon'ble High Court set aside the Tribunal's order of dismissal on the

ground of delay. The High Court held that the cause of action is continuous one. The case was remanded to be decided on merits.

6. I have given careful consideration to the arguments advanced by the learned counsel for both the parties. I find that while the applicant claims to have worked from 15.1.1982 to 14.12.1982 as per para 5(a) of the grounds in the OA it is seen from the certificate produced by him that he had actually worked from 15.12.1977 to 14.6.1978. There is no certificate for the period 15.1.1982 to 14.12.1982. ^{The available certificate is} This is on plain paper (Annexure A5) and even the stamp of the certifying authority is blurred. The respondents have rightly not accepted this certificate. I agree with the respondents that a certificate on plain paper cannot be accepted when the applicant is supposed to be in possession of a casual labour card. The applicant has not advanced any strong arguments nor has he produced any material in support of his claim of having worked between 1977-78 & 1982. ¹ As rightly pointed out by the learned counsel for the respondents the application is hopelessly barred by limitation having been made after 19 years when the cause of action arose. It is true that the Hon'ble High Court held the cause of action to be a continuous one in the case of Shish Pal Singh *supra*. However, the issue of limitation has been thoroughly adjudicated upon recently by the Full Bench of the Tribunal in their judgement dated 10.5.2000 in a bunch of OAs led by OA 706/96 in the case of Mahavir Singh Vs UOI. The Full

Bench took into consideration the judgement of the Hon'ble High Court mentioned above. The Full Bench came to the conclusion that the provision of the Railway Board's circular dated 26.4.1986 followed by circular dated 28.8.1987 issued by the General Manager, Northern Railway, for inclusion of casual labours in LCLR do not give a right to continuous cause of action and hence provision of limitation contained in Section 21 of the A.T.Act, 1985 will apply. The Full Bench has relied on the judgment in the case of R.C.Samanta Vs UOI (JT 1993(3) SC 148) as well as State of Punjab Vs Gurdev Singh (JT 1991(3) SC 465).

6. I am bound by the judgement of the Full Bench. The applicant is himself to be blamed. His application suffers from laches and delay. He has not provided any satisfactory explanation for the enormous delay in filing the OA and therefore drawing support from the Full Bench judgement the present application is dismissed on the ground of limitation as well as on merits. I do not order any costs.

Shanta Shastray
(Smt. Shanta Shastray)
Member(A)

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