

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH : NEW DELHI

O.A. No. 2867/97

New Delhi this the 25th Day of January 1999.

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

1. Nand Ballabh Pathak,
K-33A, Saket,
New Delhi-110 017.

2. Ajay Kumar Bajpayee,
C/2/304 Janak Puri,
New Delhi. Applicant

(By Advocate: Shri H.K. Gangwani)

-Versus-

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

2. Divisional Railway Manager,
Northern Railway,
Moradabad, U.P. Respondents

(By Advocate: Shri R.L. Dhawan)

ORDER

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

The applicants, two in number, claim that they have worked with the Railways as Typist and Driver for various periods between 1984-86. Their grievance is that though they had acquired temporary status having worked for more than 120 days, their services were wrongly terminated and further that the respondents have not given them re-engagement even though persons juniors to them have been given the same benefit. They have, therefore, come before the Tribunal seeking a direction to the respondents to re-engage them and to enter their names in the live casual labour register with proper seniority.

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2. The respondents in the reply have stated that the applicants were engaged for a short period in connection with the arrangement of Kumb Mela during 1986; it was also made clear to them at the time of their engagement that they will not be entitled to make any claim on account of this engagement. The respondents also say that the engagement of casual labour is only in Group 'D' categories except for certain categories of skilled artisans. They also say that any engagement of the applicant after the Kumb Mela was, against the circulars of the railways and therefore no benefit can accrue to the applicants on that account. The respondents have also taken the preliminary objection that the application suffers from limitation as the applicants have admittedly approached the Tribunal after 12 years of their last engagement.

3. The learned counsel for the applicant relied on the judgement of the Coordinate Bench of this Tribunal in O.A. No. 1101/92 decided on 3.10.1997, Girish Kumar Sharma Vs. Union of India & Others. In that case the petitioner claimed to have worked for 212 days between 1.9.1980 to 14.4.1981 and thereby claimed that he had acquired temporary status and thus entitled to reinstatement. The Tribunal decided that the respondents should consider the regularisation of the service of the petitioner in accordance with the relief claimed as and when the next vacancy arises, if the petitioner is found otherwise eligible except for age, in respect of which he may be granted the relaxation, if need be. Learned Counsel also pointed out that in the subsequent Contempt Petition, the Tribunal ordered

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that such consideration should take place even if the next available vacancy was in the direct recruitment quota. However, the learned counsel for the respondents, Shri R.L. Dhawan, submitted that the respondents had gone in appeal before the Delhi High Court and the operation of the Order dated 3.10.97 of the Tribunal in O.A. No. 1101/92 had since been stayed by the Delhi High Court by its order dated 7.1.1999.

4. Unless the orders of the Tribunal passed by the Coordinate Bench are set aside by the High Court, the mere stay of the operation of the judgement would not act as a bar in adopting the same as a precedent. Nevertheless the orders of the Tribunal in O.A. NO. 1101/92 do not necessarily have to be applicable in the present case merely because the applicants in both the cases were initially engaged as typist. In Girish Kumar Sharma (Supra), as the order of the Tribunal shows, the engagement of the petitioner was in special circumstances i.e. the arrangements for Kumbh Mela. In the present case, the applicants have been only able to show that their representations to the respondents was made only in 1997 i.e. more than 10 years after their dis engagement. Their claim is also that they were working as Group 'C' typist. The provisions of the Scheme which has been shown to me does not indicate that casual employees other than those belonging to Group 'D' are entitled to have their names kept on the live casual labour register. Since the applicant have not been able to show their entitlement for having their names placed in the live casual labour register,

they cannot claim a recurring cause of action. For that the bar of limitations would also squarely apply in their case.

5. In the light of the above discussion, the O.A. is liable to be dismissed on grounds of limitation as well as merit.

~~R.K. Ahuja~~
(R.K. Ahuja)
Member (A)

Mittal