

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.6/1997

New Delhi, this 4th September, 1997

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

Shri Azad Singh  
s/o Shri Jagdish Prasad  
Guar Bhavan, Gali No.40  
Sach Nagar-II, New Delhi

... Applicant

(Shri V.P. Sharma, Advocate)

versus

Union of India, through

1. General Manager  
Western Railway  
Church Gate, Bombay

2. Divisional Railway Manager  
Western Railway, Jaipur

... Respondents

(Shri R.L.Dhawan, Advocate)

ORDER(oral)

The applicant herein is before this Tribunal in a third round of litigation which started way back in 1991-92. A group of OAs having identical problems were disposed by a common order in Net Ram's case based on which applicant's OA No.389/92 was also decided with a direction to the respondents to include the names of the applicants in the live casual labour register(LCLR for short), if eligible for such inclusion, in terms of the circular dated 28.8.87 issued by the General Manager, Western Railway. In that circular it was mentioned that casual labour who were discharged at any time after 1.1.81 on completion of work or for want of further productive work, should continue to be borne on the LCLRs and if the names of certain such labour have been deleted due to earlier instructions, these should be restored on the LCLR.

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2. The decision dated 15.9.94 in this case (OA 389/92) on the lines of Net Ram's Case decided on 26.5.94 and the direction in that OA was to include names of the applicants therein except applicants 5, 10 and 11 in the live casual labour register if eligible for such inclusion as per circular dated 28.8.87. Applicant thereafter sent a representation dated 24.10.94 which was rejected in terms of A-1 order dated 30.8.96. Applicant is, therefore, before us repeating the same plea more than after two years. Since the direction of this Tribunal dated 15.9.94 was not complied with, the applicant preferred a contempt petition (CP No.12/96 in OA 389/92). For reasons given in the order on the contempt petition the applicant was given liberty to agitate the case afresh in case the applicant has sufficient materials to support his contention. This is how the present application is before this Tribunal. The claim of the applicant continues on the same basis as has been repeated in earlier application as well as the contempt petition.

3. Respondents have opposed the claim on the basis of on the basis of the following:-

- (i) that the applicant who had earlier worked in Alwar, Narnaul and Jaipur cannot agitate the issue in the Principal Bench. This case is hit by jurisdiction.
- (ii) that he made his representation on 24.10.94 and thereafter chose to come to this Tribunal only in 1997. The delay cannot be condoned as per law laid down in the case of Ratan Chandra Samanta Vs. UOI JT 1993(3) SC 418,

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wherein it has been held that delay deprives a person right as well remedy available in law.

(iii) that the applicant, according to his own statement, had given up job in 1985 and it does not lie in his mouth to speak about the claim after seven years in 1992 to get back the benefits at this stage. He has no legally vested right.

4. I shall now examine these contentions of respondents in seriatim.

5. As regards jurisdiction, it is seen that the applicant had earlier pressed his claim on the same lines in 1992. Although that claim was based on applicant's experience of working in Alwar and Narnaul (of Western Railway), the objection of jurisdiction was not successfully raised by the respondents. Similarly, respondents' silence on this issue of jurisdiction at the time of contempt petition in 1996 is not explained. It would be denial of justice and unfair treatment to the applicant, if this Tribunal has to adjudicate on this issue, not raised by the respondents earlier.

6. As regards limitation, the respondents' plea is that the applicant left the job of his own in 1985 and did not turn up thereafter for duty. Applicant's claim as in A-3 (page 14 of the OA) has not been controverted effectively either in counter reply or in course of pleadings. Besides that, claims of employees like applicant herein breathed into life only after the Railway Board took a decision in April, 1986 and allowed the casual labours who were discharged after 1.1.81 to be on the LCLR through a circular in August, 1987. The plea of limitation was equally applicable in September,

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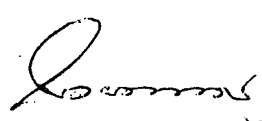
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1994 when OA 389/92 was decided but apparently this plea was not pursued with success. The bar on limitation was not allowed in Net Ram's case in May, 1994 on the ground that the respondents have no case that the seniority of casual labourers whose names are entered in the live register was published and despite this the applicants remained quiet and hence the objection was dismissed. I find no merit in the plea of respondents.

7. Under the circumstances, the applicant's case deserves consideration in the light of instructions contained in circular dated 28.8.87. I therefore dispose of this OA with the following directions.

8. Annexure A-1 letter dated 30.8.96 shall stand quashed. Respondents are directed to include the name of the applicant in the LCLR if he is eligible for such inclusion in terms of the circular dated 28.8.87 referred to above. Applicant will, however, be given engagement as casual labour only when vacancy/need arises and that too strictly in terms of seniority and instructions laid down on the subject.

9. The OA is disposed of as aforesaid. No costs.

  
(S.P. Biswas)  
Member (A)

/gtv/