

CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH,
NEW DELHI.

New Delhi this the 27th September, 1995.

HON'BLE MR. S.R. ADIGE, MEMBER (A)

HON'BLE DR. A. VEDAVALI, MEMBER (J)

1) O.A.No.2529/94

Shri Kaluwa,
s/o Ram Prasad,

Ex. Casual Labour under
Inspector of Works,
Northern Railway,
Garh Mukteshwar presently

working at Sai Co-operative Group Housing
Society,

Plot No.17, Sector 13, Rohini,
Delhi.

By Advocate Shri S.K. Sawhney
versus

.....Applicant.

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. Divisional Railway Manager,
Northern Railway,
Hapur, Muradabad.

3. Assistant Engineer,
Northern Railway,
Hapur

.....Respondents.

By Advocate Shri K.K. Patel.

2) O.A.No.2209/94

1. Shri Hira Singh
s/o Shri Balaki,
Ex. Casual Labour under
Permanent Way Inspector,
Northern Railway,
Muradabad,
R/o H.No.1298, Kucha Pati Ram,
Delhi

And 5 others

.....Applicants.

versus

Union of India through
General Manager, New Delhi,
New Delhi & 2 others

.....Respondents.

3) O.A.No.2211/94

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1. Ranjit
s/o Neta,
Ex. Casual Labour
Under Inspector of Works,
Northern Railway,
Garhmukteshwar,
R/O Block D/1, 777, Police Apartments,
Punjabi Bagh,
New Delhi.Applicant.

Versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi
and 2 othersRespondents.

4) O.A.No.2213/94

Shri Dharam Pal ,
s/o Shri Hari Ram,
R/o 724, Kuchha Lachu Ram,
New Anaj Mandi,
Shahdara,
Delhi,
Ex. Casual Labour under
Permanent Way Inspector,
Northern Railway,
Ghaziabad.Applicant.

Versus

Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi
and 2 othersRespondents.

5) O.A.No.2251/94

1. Shri Hoshiar Singh,
s/o Shri Balwant,
Ex. Casual Labour,
Under Inspector of Works,
Northern Railway,
Gajrola,
now working at site No.2811,
Sector 9, Rohini , Delhi
....Applicant

Versus

Union of India through
General Manager,
Northern Railway, ik

Baroda House,
New Delhi.

and 2 others

..... Respondents.

6) Q.A.No.157/95

Shri Sattar,
s/o Sh-i Ali Hassan,
Ex.Casual Labour,
under Permanent Way Inspector,
Northern Railway,
Amroha,
working at Sai Co-operative ,
Group Housing Society,
Plot No.17, Sector 13,
Rohini,
Delhi

..... Applicant

Versus

1.Union of I la through
General Manager,
Northern Railway,
Baroda House,
New Delhi

and 2 others

..... Respondents.

Shri S.K.Sawhney ,Advocate for the applicants.

Shri K.K.Patel, Advocate for the respondents.

ORDER (ORAL)

By Hon'ble Mr. S.R.Adige, Member(A)

As these QAs involve common questions of law and fact, they are dealt with ^{by} this common judgment.

2. In these QAs, the applicants have sought for a direction to the respondents to publish the seniority list of persons whose names have been entered in the Live Casual Labour Register and to direct the respondents not to resort/contractual agencies for doing additional work which was of perennial nature. A direction has also been sought to re-engage the applicants if the persons junior

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3. It may be mentioned that during hearing, the second relief, namely direction to the respondents not to resort to contractual agencies for doing additional work which was of parennial nature, was not pressed.

4. The case of the applicants is that they worked as Casual Labourers for different periods as per details given below:

S1.

No. & A. Number Names of applicants Total Casual Labour service Date of Engagement Office in which first engaged.

1	2	3	4	5	6
1.	2529/94	Kaluwa s/o Ram Prasad.	581 days	15.5.81	IOW, Garh Mukteshwar.
2.	2209/94	Hira Singh s/o Balaki	448 days	24.7.78	PWI/MB.
		Nauran s/o Mohan	535 days	22.8.76	PWI/HPU.
		Nanwa s/o Chhidoo	417 days	15.5.81	IOW/GMS
		Krishan Lal s/o Tej Ram	542 days	15.1.74	IOW/HPU
		Harnarain s/o Jai Singh	438 days	-	IOW/GMS
		Sabir s/o Chanda	402 days	24.6.78	IOW/GMS
3.	2211/94	Ranjit s/o Neta.	235 days	15.7.78	IOW/GMS
		Om Prakash s/o Raja Ram	256 days	15.12.78	IOW/GMS
		Bharat Singh s/o Nathoo	171 days	15.12.78	IOW Gajraula.
4.	2213/94	Dharampal s/o Hari Ram s/o	1yr.6months	14.2.78.	PWI, Ghaziabad.
5.	2251/94	Hoshiar Singh/Balwant Nand Ram s/o Ram Singh.	842 days	1.6.82	IOW, Gajraula.
6.	157/95	Sattar s/o Ali Hassan.	496 days	7.4.78	IOW, Gajraula.
			372 days	15.6.78	PWI, Amroha.

5. The applicants contend that they had completed 120 days service but they were disengaged without notice to them as required under Rule 149

Railway Establishment Code I. They have also enclosed the copy of Casual Labour Cards. The names mentioned in the cards are not entered in the live Casual list Labour Register but the seniority of the applicants

in terms of the said entries made in the Live Casual Labour Register has not been published and the applicants had been kept in dark in regard to their turn of re-engagement as per their seniority.

They state that in terms of General Manager, Northern Railway's letter dated 14.8.87, the Live Casual

Labour Registers are to be maintained where the particulars of the retrenched casual labourers are entered in order of their seniority. The names of

all casual labourers discharged after 1.1.81 and

those who had worked prior to 1.1.81 and submitted proof of such working upto 31.3.87 were to be

continued on the Live Casual Labour Register and

if any requirement of the casual labourers in the seniority unit arose, the same was to be met with

by re-engagement of casual labourers from the Live C.L.Register in order of seniority on the principle of last go first in. They state that the Hon'ble

Supreme Court in Ratan Chandra Samanta & others Vs.

UOI -J.T. 1993 (3)SC 418 had observed "right

of casual labourers employed in project to be

re-employed in Railways has been recognised both by

Railways and the Court but unfortunately the petitioners

did not take any steps to enforce their claim before

the Railway except sending a vague representation."

It was in view of the inaction of those applicants

in taking appropriate action that their right had

extinguished with the flux of time. The applicants

contend that in the present CAS, however, they had

taken appropriate action under the provisions of Railway

Board's letter dated 4.3.87 for getting their names

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entered in the Live CL.Register but they do not know their position in the seniority list as the same has not been published. They allege that the persons with lesser length of casual labour service, have been employed by the respondents and upon learning about the same they submitted the said representation to the respondents but received no reply. However, the other similarly placed persons who had also submitted a joint representation, were informed by the respondents that the persons junior to them had been re-engaged under the Tribunal's directions and that this benefit could not be extended to them as they were not party in those cases. Accordingly, the applicants have filed these Q.A.s and have prayed for the relief, referred to above.)

6. The respondents in their reply state that they are publishing the seniority lists from time to time which are displayed every where so that the casual labourers may approach them for re-engagement. They state that the applicants are not entitled to claim the relief embodied in the circular dated 14.8.87 as they left the work without giving their whereabouts and without approaching the authorities for the last 13-14 years. Furthermore, they state that the procedure of employment is embodied in the statutory rules provided by the Railway Board and the applicants do not fulfil the prescribed conditions. The respondents that the main thrust of the present Q.A.s is that

some of the casual labourers have been appointed by virtue of the Tribunal's order and the pleas of the petitioners are that the persons so appointed are junior to them, but the benefit of the Tribunal's order cannot be extended to these applicants as they were not party to those O.A.s. The respondents state that the casual labourers are being engaged as per the policy laid down by the Railway Board and nobody has been discriminated against. They further state that pursuant to the Hon'ble Supreme Court's decision in Inderpal Yadav & others Vs. UOI, (Writ petitions No. 147, 320-369, 454 and 4335-4434/83 decided on 18.4.85) the Railway Board issued instructions being RBE 167/86 granting temporary status to casual railways employees employed on projects (also known as Project Casual Labourers) on completion of 360 days subject to their being in service on 1.1.81, or those who were not in service on 1.1.81 had been in service in the railways earlier and had already completed the 360 days of continuous employment or have completed or will complete the said prescribed period of continuous employment on re-engagement after 1.1.81. The respondents state that the said instructions prescribed the length of service of continuous employment and the date on which a casual labourer could be treated as having acquired temporary status, but none of the present applicants fall within those categories. They state that pursuant to RBE 167/86, the General Manager, Northern Railway had issued

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a Circular on 14.8.87, which laid down that whatever additional requirement of casual labourers arose, the same had to be met with by re-engaging the casual labourers who had earlier worked on seniority unit and had been retrenched due to completion of work. They state that the present applicants are not entitled to claim under the above Circular. Reference has also been made to Circular dated 23.3.90 laying down the manner in which the Live Casual Labour Register is to be maintained.

7. The respondents contend that their instructions further require that representations were required to be called from various casual labourers whose names were not placed on the Live Casual Labour Register and those such representations received on or before 31.3.87 were to be considered after verification of valid documentary proofs and if they were found eligible, their names were to be entered in the Live Casual Labour Register and thereafter those Live Casual Labour Registers were required to be closed and no further names were to be added except those casual labourers who had been retrenched after 1.1.81 and they were eligible to be placed on those registers. The respondents contend that the applicants do not fulfil any of the conditions of the scheme and are not entitled to claim any relief. Their cases are barred by limitation as they are approaching the Court after 10-15 years and they deny that the applicants' representations were answered by them in 1994. They state that the applicants are even junior to those who were granted the relief by the Tribunal. In this connection, they

have placed reliance on Rattan-Chandra Samanta's case (Supra) wherein the Hon'ble Supreme Court has observed

"It was alleged by the learned counsel for the petitioners that they may be permitted to produce their identity cards before the opposite parties who may accept or reject the same after verification. We are afraid it would be too dangerous to permit this exercise. A writ is issued by this Court in favour of a person who have some right and not for sake of reviving enquiry leaving scope for manceuvring. It will itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation a person who has lost his remedy by lapse of time lose his right as well. From the date of retrenchment if it is assumed to be correct a period of more than 15 years has expired and in case we accept the prayer of the petitioner we would be depriving the host of others who in the meantime have become eligible and are entitled to claim to be employed."

It is stated that on this ground also the applicants are not entitled for any relief. Further more, it is stated that as the cause of action has arisen three years prior to the establishment of the Tribunal, its jurisdiction is barred by time. It is also stated that the names of the applicants were not included in the Live Casual Labour Register and they never made any representation for their inclusion after publishing the seniority list from time to time nor did they approach the department for

8. The applicants in their rejoinder have denied the contentions of the respondents and have broadly reiterated the contentions made in the O.As.

9. We have heard Shri S.K.Sawhney for the applicants and Shri K.K.Patel for the respondents. We have also perused the materials on record and considered the matter carefully.

10. Shri K.K.Patel has invited our attention to the Tribunal's order dated 26.5.94 in O.A.No.2441/91 Net Ram & others Vs. General Manager, Western Railway which has been disposed of with a direction to the respondents to include the names of 8 applicants out of 11 in the Live Casual Labour Register, if eligible for such inclusion, in terms of the Railway Board's Circular dated 28.8.87 and to give engagement to the applicants as casual labourers as and when need arises, in accordance with their seniority in that register. Shri Patel states that the respondents would have no objection if the directions contained in Net Ram's case (Supra) were extended to the applicants in these OAs also. In this connection, our attention has also been invited to the order of the Hon'ble Supreme Court dated 15.12.94 in Civil Writ Petition No.262/94 Dhirender Singh & others Vs. Union of India & others, wherein 42 petitioners had claimed benefits under the Scheme worked out by the Hon'ble Supreme Court in Writ Petitions No.147, 320-369, 454 and 4335-4434/83 Inder Pal Yadav Vs. UOI, decided on 18.4.85. In that case, the Railway Administration's counsel has stated that if the petitioners were in a position to place evidence for the Railway Administration

showing that they were genuine casual labourers on projects and had completed the required period of service to be entitled to the benefits under the Scheme, the Railway Administration would have no objection to giving them that benefits. Accordingly, the Hon'ble Supreme Court directed the Railway Administration to appoint a high ranking officer before whom the applicants would produce whatever evidence they had in support of their claims for eligibility for the said benefits and the Officer so appointed after scrutinising the claims of those applicants would pass a speaking order whether or not the petitioners are entitled to those benefits within specified time limit.

11. Confining ourselves to the reliefs pressed by the applicants in these QAs, namely :

- i) publication of the seniority list of the persons whose names have been entered in the Live Casual Labour Register of the Unit;
- ii) re-engagement of the persons if juniors to them have been appointed, and in the background of the judgment, referred to above, as well as the submissions of the counsel for both sides, we dispose of these QAs, with a direction to the respondents that in the event the applicants approach the DRM, Moradabad through a detailed and self-contained representation within two months from the date of receipt of a copy of this judgment, the respondents will examine the contents of the same and

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- 1) publish or cause to publish the seniority list of the persons whose names have been entered in the Live Casual Labour Register of the relevant unit in the event the same has not already been done;
- 2) dispose of the claim of the applicants for re-engagement on the ground that their juniors have been appointed, by means of a detailed and ~~leaking~~ order in accordance with law under intimation to the applicant(s) within 3 months of receipt of such representation. While disposing of these claims the respondents will keep in view the relevant instructions issued from time to time on the subject and in particular paragraph 9 of the letter dated 14.8.87 from the General Manager, Northern Railway addressed to all DRMs etc.

12. If any grievance survives thereafter, it will be open to the applicants to agitate the same through appropriate original proceedings in accordance with law, if so advised. No costs.

(DR. A. VEDAVALLI)
MEMBER (J)

(S. R. ADIGE)
MEMBER (A)

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