

CENTRAL ADMINISTRATION TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. No. 769 of 1994

This 19th day of April, 1994

Hon'ble Mr. Justice S.K. Dhaon, Vice Chairman (J)
Hon'ble Mr. B.K. Singh, Member (A)

Jahid Ali,
Ex-Casual Labour Waterman,
Under Station Master,
Mandrok, Northern Railway,
Allahabad Division,
Mandrok.

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Applicant

By Advocate: Shri B.S. Maine

Versus

Union of India, through:

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Allahabad.

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Respondents

By Advocate: None.

ORDER (Oral)

(Hon'ble Mr. Justice S.K. Dhaon, VC(J)

The only relief sought in this application is that the Tribunal may direct the respondents to place the name of the applicant in the live casual labour register. Further, the Tribunal may direct the respondents to re-engage the applicant as casual labour in accordance with his seniority.

2. The material averments in this application are these. The applicant was engaged as casual labour for 38 days w.e.f. 9.7.1986. He was again engaged as casual

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labour under the Chief Ticket Inspector, Aligarh where he worked for 82 days w.e.f. 25.5.90 to 14.8.90. In accordance with the Railway Board's Circular dated 25.4.86 the name of each casual labour who was discharged at any time after 1.1.1981 on completion of work or for want of further work, should continue to be borne/the live casual labour register and if his name has been deleted due to earlier instructions, it should be restored on the live casual labour register.

3. The allegation made in the O.A. makes it amply clear that the name of the applicant was not at all brought on the live casual labour register.

4. The averments made in the application ~~itself~~ go to show that the cause of action accrued to the applicant in August 1990 when his name was not entered in the/casual labour register. An application under Section 19 of the AT Act can be filed only/^{within} prescribed time limit.

In this case, the cause of action arose in August 1990 and therefore limitation commenced from that date (14.8.90). It is therefore a very highly belated application on the face of it. The learned counsel for the applicant has argued that the judgment of the Allahabad Bench of this Tribunal in the case of Mithai Lal Vs. Union of India & Ors. (OA No. 1220/88) passed on 14.3.89 in on similar facts. In paragraph 8 of the judgment it is observed:

"This being the situation, the applicant's cause for being placed on the live casual labour register and to be re-employed is a recurring cause from day to day under the decision of the Railway Board itself, and there is no question of the claim being barred by limitation under section 21 of the Act".

4. Sitting as a Division Bench, we are bound to follow the Judgement of another Bench of the same strength. However, we feel that the judgement given by the Allahabad Bench is no longer a good law in view of the judgement of the Supreme Court in the case of Ratan Chandra Sammanta & Ors. Vs. Union of India, JT(1993)3 413 SC. In this case casual labourers from the South Eastern Railway approached the Supreme Court under Section 32 of the Constitution with the prayer that a direction should be issued to the opposite parties therein to include their names in the live casual labour register after due screening and give them re-employment according to their seniority. Their Lordships dismissed the petition on the ground of delay. Their Lordships held that, a person who has lost his remedy by lapse of time loses his right as well. A writ is issued in favour of a person who has some right and not for the sake of roving enquiry leaving scope for manoeuvring.

5. In the present case too, as we have indicated above, the cause of action commenced in August 1990 and the applicant lost remedy by lapse of time on the expiry of period specified under Section 21 of the Act. We are bound by the Judgement of the Supreme Court in the case of Ratan Chandra Sammanta & Ors. (supra). We have therefore no option but to dismiss the application as barred by limitation.

6. The learned counsel for the applicant pointed out that he has filed an application for condonation of delay. We have perused its contents and we find that no satisfactory explanation has been offered by the applicant in it for the condonation of delay. Accordingly, the application is dismissed as barred by limitation.

(B. K. Singh)
Member (A)

vpc

(S. K. Dhaon)
Vice Chairman (J)