

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.A. No. 1249 of 1994

New Delhi this the 17th day of October, 1994

Mr. Justice S.K. Dhaon, Vice-Chairman
Mr. B.N. Dhoundiyal, Member

1. Shri Lalman
R/o House No.1335,
Rohtas Nagar East,
Gali No. Shahdara,
Delhi-110032.
2. Shri Naseem
R/o 124, Shah Jada Bagh,
Inderlok,
Delhi-110035.
3. Shri Harbans
R/o 1/3500 Ramnagar,
Mandoli Road, Shahdara,
Delhi-32.

...Applicants

By Advocate Ms. Raman Oberoi

Versus

1. Union of India,
the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Moradabad.
3. Assistant Engineer,
Northern Railway,
Hapur.
4. Inspector of Works,
Northern Railway,
Gajrola, Distt. Moradabad.
5. Inspector of Works,
Northern Railway,
Garh, Mukteshwar,
Moradabad.
6. P.W.I.,
Northern Railway,
Hapur.

...Respondents

By Advocate Shri H.K. Gangwani

ORDER (ORAI)
Mr. Justice S.K. Dhaon, Vice-Chairman

A counter-affidavit has been filed on
behalf of the respondents. Shri Gangwani has
been heard in opposition to this.

Since this is a short matter we, therefore, propose to dispose of this O.A. even though this has not been formally admitted as yet. The undisputed facts are these. The applicants rendered service to the respondents for 605 days, 227 $\frac{1}{2}$ days and 367 days. They worked against emergency flood work.

Learned counsel for the respondents concedes that had the applicants worked continuously in the open line for 120 days, they would be entitled to be included in the Live Casual Labour Register. He, however, contends that, they having worked during the aforesaid period intermittently, the question of their names being included in the Live Casual Labour Register did not arise.

In the counter-affidavit filed, the respondents have scrupulously avoided in making a categorical averment that the applicants did not work continuously although it is admitted that the applicant No.1 worked for 605 days, the applicant No.2 worked for 227 $\frac{1}{2}$ days and, the applicant No.3 worked for 367 days.

In support of their assertion, the applicants have filed documents. A perusal of the same goes to show that they did work for more than 120 days continuously. In the counter-affidavit it is ^{not} stated that the said documents are not genuine. We, therefore, have no option but to accept the case of the applicants that they became entitled to be included in the Live Casual Labour Register.

They cannot be allowed to suffer merely because the respondents ^{had} erred in not including their names in the Live Casual Labour Register.

In order to defeat the case of the applicants, the respondents have taken the plea of limitation. It is conceded that had the names of the applicants been included in the Live Casual Labour Register they would have become entitled for temporary status. On that basis they would have been engaged as casual labourers if and when vacancies occurred. Therefore, every time an engagement was made without considering their cases, a fresh cause of action accrued to them. In these circumstances, the bar of limitation will not be applicable.

The controversy appears to be concluded by a judgment given by us in O.A. No.1517 of 1993 decided on 07.02.1994.

The application succeeds and is allowed. The respondents are directed to treat the applicants as being included in the Live Casual Labour Register. They are also directed to assign them work if and when a necessity arises for doing so strictly in accordance with their names appearing in the Live Casual Labour Register.

There shall be no order as to costs.

B.N. Dholiyal
(B.N. DHOUNDIYAL)
MEMBER (A)

S.K. Dhaoniyal
(S.K. DHAONIYAL)
VICE CHAIRMAN

RKS