

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

R.A.NO.72/2001
IN
O.A.NO.2394/2000

Friday, this the 28th day of September, 2001

Hon'ble Shri S.A.T. Rizvi, Member (Admn)

1. The General Manager,
Northern Railway, Baroda House
New Delhi
2. The Divisional Railway Manager,
Northern Railway, Estate Entry Road
New Delhi
3. The Permanent Way Inspector
Balaray (BLZ), Punjab.

..Review applicants

(By Advocate: Shri B.S.Jain)

Versus

Shri Praveen, S/O Shri Kishore Lal,
R/O Ritu Electricals, Budh Bazar Road
Raj Nagar-II, Palam, New Delhi.

...Respondent

(By Advocate: None)

O R D E R (ORAL)

None appeared on behalf of the respondent even on the second call. It is seen that no one appeared on behalf of the respondent even on earlier five occasions, namely, on 4.5.2001, 8.5.2001, 6.7.2001, 3.8.2001 and 24.9.2001. I have heard the learned counsel appearing for the review applicants and have perused the material placed on record.

2. The present Review Application is directed against the order passed by this Tribunal on 17.11.2000 in OA-2394/2000.

3. In the aforesaid OA, the applicant had worked as casual labour for short spells of time during 1983-86. He was not reengaged after 14.9.1986. On this basis, the applicant in the OA sought the relief of his name being

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incorporated in the live casual labour register and the further relief of being engaged in future subject to availability of work. This Tribunal, having regard to the provisions made in the Railway Board's circular dated 28.8.1987, directed that his name may be incorporated in the said register and he be considered for engagement in future subject to availability of work.

4. The learned counsel appearing on behalf of the review applicants has argued that the aforesaid order runs counter to the findings arrived at by the Full Bench of this Tribunal on 10.5.2000 in the case of Mahabir Versus Union of India & Ors., reported as 2000 (3) ATJ 1. The relevant provisions made in that order has been reproduced by the learned counsel in the Review Application at pages 3 and 4. The same is reproduced below for the sake of convenience:-

"11. Aforesaid circular, in our judgement, confers a right on casual labour to be placed on the live casual labour register. The said right arises the moment the casual labour is discharged. The said right is conferred on such casual labour who have been discharged after 1.1.1981. Hence, the moment a casual labour is discharged, a right to be placed on the register arises. To give an example, in respect of casual labour who have been discharged say, on 1.1.1982, the right to be placed on the register arises as on that date. The casual labour, no doubt has a right to be continued on the live casual labour register indefinitely. However, before that right of being continued on the register indefinitely can arise, the right to be placed on the register in the first instance has to be asserted. The cause of action for asserting the said right arises on 1.1.1982 when the casual labour is discharged. This is amply clear from the aforesaid recital to be found in the circular. Circular no doubt casts an obligation on the part of the administration to maintain the registers

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continuously. That, however, does not mean that the same confers a continuing right on the part of the casual labour to be placed on the register in the first instance. If the right which has accrued in his favour on 1.1.1982 is denied to him, he has to take recourse to approach this Tribunal within the time prescribed by Section 21 of the Administrative Tribunals Act, 1985. He cannot wait for time immemorial and approach the Tribunal at leisure and, at his whims and fancies, may be years later, and assert his right of being placed on the register."

5. After ^{3 pausing} ~~considering~~ the above, I find that the order passed by this Tribunal on 17.11.2000 could not have been passed in the face of the aforesaid finding arrived at by the Full Bench. The applicant in the OA was not reengaged after 14.9.1986. In order to get his name incorporated in the live casual labour register, he should have approached the concerned authority in good time. On failing to ^{2 find} ~~find~~ his name ^{2 duly} ~~not~~ incorporated in the said register, he should have approached this Tribunal within the period laid down in Section 21 of the Administrative Tribunals Act, 1985. The period laid down in that Section is to be counted from 14.9.1986, the date on which the grievance first arose. The applicant in the OA, I find, has made no effort to approach this Tribunal within the time prescribed in the aforesaid Section of the Administrative Tribunals Act, 1985. His claim ^{2 made} ~~made~~ in the OA is, therefore, ² be treated as time barred in terms of the findings of the Full Bench reproduced above.

6. In the circumstances, the Review Application succeeds and is allowed. The order dated 17.11.2001 is hereby recalled and the OA is restored. The same is, however, dismissed for the reasons recorded above.


(S.A.T. RIZVI)
MEMBER (A)

/sunil/