

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.NO.2209/2000

Monday, this the 20th day of August, 2001

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

Salim Akhtar, Son of Shri Sharif Ahmad
R/O Village-Harshwara, P.O. Najibabad, Distt. -
Bijnaur, (UP), PIN-246762.
At present - A/163, Street No.9, Main 66 No. Road,
Jafrabad, Delhi-53.

...Applicant

(By Advocate: Shri A.P. Sahay)

Versus

1. The Union of India, through the Secretary
Ministry of Railways, Rail Bhawan,
New Delhi.
2. The Member, Personnel, Railway Board,
New Delhi.
3. The Divisional Railway Manager,
Northern Railway, Muradabad, UP.
4. The Chief P. Way Inspector Northern Railway,
Najibabad, UP.

...Respondents

(By Advocate: Shri D.S.Jagotra)

O R D E R (ORAL)

Heard the learned counsel on either side.

2. MA No.2/2001 filed by the applicant is allowed as
the learned counsel for the respondents sees no objection
to the same being allowed. The OA will stand amended
accordingly.

3. The applicant's case is that he has served under
the respondent No.4, namely, the Chief P. Way Inspector,
Najibabad, UP during the period from 7.10.1981 to 10.6.1985
in broken spells. No document has ^{however} been produced in support
of the aforesaid claim. The prayer made is for absorption
of the applicant in the employ of the respondents on
regular basis. The applicant has filed several
representations in the matter without any response from the
respondents.

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4. The learned counsel appearing on behalf of the respondents submits that the applicant's case is barred by the law of limitation in accordance with Section 21 of the Administrative Tribunals Act, 1985. The grievance arose in this case in 1985, i.e., about 16 years ago. The present OA has been filed in October, 2000. Placing reliance on Rattan Chandra Sammanta & Ors. Vs. Union of India & Ors., reproduced in JT 1993 (3) SC 418 decided by the Hon'ble Supreme Court, the learned counsel for the respondents submits that the abnormal delay caused in this case has deprived the applicant of any remedy under the law. The Supreme Court has in the aforesaid case held that "a person who has lost his remedy by lapse of time loses his right as well."

5. Furthermore, the learned counsel argues that the applicant has not produced his casual labour card which is issued to ~~other~~ ^{all the} casual workers and is in the nature of a service certificate. Such a card is issued in accordance with clear provisions made in the IREM and the same is supposed to contain various details about the casual labour. A service certificate produced by the applicant on a plain paper cannot be accepted in support of the applicant's contention in regard to the length of ~~the~~ service performed by him as casual labour. In support of this contention, the learned counsel places reliance on Pravir Sarkar & Ors. Vs. Union of India & Ors., decided by the Calcutta Bench of this Tribunal and reproduced in SLJ 1999 (1) CAT 445. The learned counsel further submits that, at this belated stage, it is not even possible to work out the details of the service rendered by the applicant as

the labour pay-sheets from which the claim of the applicant could be verified have since been destroyed after the expiry of five years in the manner laid down in the relevant rules for the preservation of records. Thus, it is not possible for the respondents to verify the claim of the applicant in regard to the service performed by him during the period from 7.10.1981 to 10.6.1985.

6. On the aspect of delay, the learned counsel for the respondents further places reliance on the judgement of the Full Bench of this Tribunal in OA-706/1996 and other connected OAs (Mahabir Vs. Union of India & Ors.). Going by what the Full Bench has held in the aforesaid case, the applicant has no case for his name being incorporated in the live casual labour register at this belated stage and that being so, his claim cannot be sustained.

7. The learned counsel for the respondents has also raised the issue of jurisdiction by contending that having been employed at Najibabad, the applicant should have filed the OA at Allahabad. The applicant has also failed to file a transfer application. The OA filed by him also gives Najibabad/Bijnaur address, though it has been indicated in hand therein that his present address is A/163, Street No.9, Main 66 No. Road, Jafrabad, Delhi-53. The aforesaid description of the applicant's address cannot, in my view, establish that he has ^{ordinarily} been residing at Delhi. All that is indicated is that he was presently to be found at Delhi. Thus, as submitted by the learned counsel for the respondents, the present OA is barred by ^{territorial} jurisdiction also.

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8. For all the reasons mentioned above, the present OA
is found to be time-barred and also fails on merit.
Furthermore, this Bench has no jurisdiction to take up
this OA which is dismissed. No costs.

S.A.T. Rizvi
(S.A.T. Rizvi)
Member (A)

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