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Central Administrative Tribunal, Principal Bench

Original Application No. 2217 of 2000

New Delhi, this the 16th day of May, 2001

Hon'ble Mr. Kuldip Singh, Member (J)

Kamal Singh S/o Shri Ram Chander Singh
R/o c/o F-371, Raj Nagar-II
New Delhi-45

- Applicant

(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India through
The General Manager
Northern Railway, Baroda House,
New Delhi
2. The Divisional Railway Manager
Northern Railway, Bikaner Division
Bikaner (Raj.)
3. The Divil. Engineer-II
DRM Office, Northern Railway
Bikaner (Raj).

- Respondents

(By Advocate: Shri R.L. Dhawan)

O R D E R

By Hon'ble Mr. Kuldip Singh, Member (J)

The applicant has filed this O.A. seeking following reliefs:

"ii) That the Tribunal may graciously be pleased to pass an order directing the respondents to re-engage the applicant in preference to juniors and freshers after including the name of the applicant in live casual labour register and also intimate the applicant regarding their seniority position in live casual labour register; and

ii) That the Tribunal may further graciously be-pleased to pass an order of quashing the impugned order dt. 5.2.99 declaring to the effect that the same is illegal and against the rules and law and consequently the applicant is entitled for his engagement in preference to juniors and freshers."

2. Facts in brief are that the applicant had

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worked as casual labour for total number of 141 days between the period 18.1.84 and 29.7.84 with intermittent breaks. Applicant claims that certain persons who were working alongwith him and were juniors to him, have been re-engaged and, therefore, he is also entitled for re-engagement.

3. It is pertinent to mention here that applicant had earlier filed an O.A.2121/98 which was decided on 3.11.98 whereby the directions were given to the respondents to decide the representation of the applicant by passing a detailed and reasoned order. The said representation of the applicant was rejected vide order dated 5.2.99 wherein the respondents had taken the plea that since the applicant had left work wilfully and voluntarily, therefore, he could not be considered for re-engagement or for placing his name on the Live Casual Labour Register (in short 'LCLR'). In the present O.A., the applicant has challenged the aforesaid order dated 5.2.99, stating that the reasons recorded in that order rejecting his representation, are erroneous and against the law laid down by the Full Bench of the Tribunal in the case of Mahabir & ors. vs. UOI & ors. (O.A.706/96 with connected matters), according to which if a casual labour leaves the work then it is the duty of the respondents to serve a notice upon him to join duties. It is claimed that since juniors have been re-engaged, so the applicant is also entitled for re-engagement and his name should be placed on the LCLR.

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4. Respondents in their reply have taken the plea that the O.A. is barred by res judicata. Besides it is barred by time and is not maintainable under Section 21 of the Administrative Tribunals Act. It is submitted that the applicant had last worked in July, 1984 and this O.A. has been filed in October, 2000 after a gap of 15-16 years. As per the Railway Scheme on Casual Labourers, the applicant should have applied for being enlisted on the LCLR within the time frame fixed and if his name was not entered, then he should have approached the Tribunal within the period prescribed under Section 21 of the A.T. Act.

5. I have heard learned counsel for the parties and gone through the records.

6. As far the plea of limitation is concerned, learned counsel for the applicant submitted that since the order impugned in this OA has been passed in compliance with the orders passed in an earlier O.A., so the applicant's cause of action is within time. Besides that, he further submitted that since he has come to know now that his juniors have been re-engaged, so this O.A. is within time.

7. To my mind, the above contention of the applicant's counsel has no merit because as per the casual labour scheme, the railways are engaging only those casual workers whose name exist on the LCLR which was prepared in pursuance of the Scheme issued sometime in 1989 and has further seen modifications

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from time to time. As regards bringing the name on the Live Casual Labour Register, the same very point was referred to the Full Bench:-

" (a) Whether the claim of a casual labourer who has worked prior to 1.1.1981 or thereafter with the respondents i.e. Railway Administration has a continuous cause of action to approach the Tribunal at any time, well after the period of limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985, to get a direction to have his name placed on the Live Casual Labour Register; in other words, whether the provisions of the relevant Railway Board circulars for placing his name in the LCL Register gives him a continuous cause of action".

8. The Hon'ble Full Bench after considering the rival contentions and going through the various judgments on the issue, answered the question in the following manner:-

"18. In the light of the foregoing discussion we answer the aforesaid issue (a) as under:

Provisions of the relevant Railway Board's circular dated 25.4.1986 circular dated 28.8.1987 issued by General Manger, Northern Railway for placing the names of casual labour on the Live Casual Labour Register do not give rise to a continuous cause of action and hence the provisions of limitation contained in Section 21 of the Administrative Tribunals Act, 1985 would apply".

9. It is an admitted case of the applicant that he last worked with the railways in July, 1984 and thereafter, he made representation for re-engagement only on 11.10.98. This shows that the applicant had made representation for the first time for inclusion of his name in the LCLR after a period of more than 14 years. Thus it is quite clear that the applicant had been

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sleeping over his rights for getting his name enlisted on the LCLR for a long time which right has been forfeited by virtue of limitation period having already expired.

10. Though the learned counsel for the applicant submitted that he had earlier filed an O.A.2121/98 and the order impugned in the present case has been passed in compliance with the directions in that O.A. but I find that O.A.2121/98 was decided at the admission stage itself and no notice was issued to respondents and they had no opportunity to raise the plea of limitation.

11. In view of the law laid down by the Full Bench in the case of Mahabir & ors. vs. UOI & ors. (supra), I find that the case of the applicant is time barred. It is, therefore, rejected on the grounds of limitation. No costs.

(Kuldip Singh)
Member(J)

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