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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 2373/91

Date of decision: 10.08.93

Sh. Balbir Singh & Ors. . . . Applicants

V/s

Union of India

Respondents

CORAM

Hon'ble Mr. J.P. Sharma, Member (J)

Hon'ble Mr. S. Gurushankaran, Member (A)

For the applicants

Sh. Sanjiv Madan, Counsel

For the respondents

Sh. Romesh Gautam, counsel.

JUDGEMENT (oral)

(Delivered by Hon'ble Sh. J.P. Sharma, Member (J))

It is not disputed by the respondents that the applicant has worked as a casual daily wager since 1983 till 15.07.86. It is also not disputed that there-after he was reengaged and worked from 15.03.88 to 14.06.88. However, the defence of the respondents is that the applicant has given an undertaking to the effect that he ^{was} prepared to accept the short ^{for} leave vacancy and will forego his ^{for} claim further engagement on another vacancy on the same discipline. The case of the applicant, however, is that he received a letter on 29.05.89 for appearing an interview for the post of Electric Khalasi/Loco Cleaner and that he was also working as a casual daily wager and continued to work till 30.04.90 when he was ceased from the employment on the ground that he has applied and was also interviewed for the post of Electric Khalasi/Loco cleaner.

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We have heard the learned counsel for the applicant at length and also perused the rejoinder and there is no record to substantiate the fact that the applicant actually ~~was~~ engaged with the respondents till 30.04.90.

The learned counsel for the respondents could not show ~~us~~ any of the Rule or Circular or Administrative instruction issued by the Railways that once a casual labour has been engaged for a short term vacancy and the event of being subsequently ceased from the services on account of the sanction for the vacancy coming an end, the name of such an incumbent for all purposes have ~~strike~~ struck out from the waiting list of casual labourers maintaining in the Live Casual Labour Register. This also does not appear to be an equitable just and fair.

The next contention of the learned counsel for the respondents is that since the applicant was last disengaged in June, 1988 but the present application which has been filed in October, 1991 is against the Limitation provided under section 21(1) of the C.A.T. Act, 1985 and the applicant could have come within one year after his ~~dis~~ engagement and within one and a half year after waiting the result of representation if any.

The learned counsel for the respondents also stressed that there is no application for condonation of delay. There is ~~an~~ ^{ment in the} ~~excluded~~ aspect. The limitation gives a precious right to the ~~advisory~~ and it is necessary that a subject matter should also be assailed within the prescribed period laid down by the rules.

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The learned counsel for the applicant made an oral request for condoning the delay as the only relief he is praying in the application is that the name of the applicant be re-entered on the basis of seniority calculated on the number of days put in by the applicant as a casual daily wager with the respondents and on that basis, he should be considered for re-engagement vis-a-vis his juniors as on June, 1988 or fresh arrivals from the market. We are, therefore, inclined to condone this delay on the basic reason that the applicant was called for interview in May 1989 and from that ~~by your date~~ ^{date} ~~yourself~~ ^{ceasing} the period can be calculated giving him a cause of action from that date. In any case, the delay from that date appears to be only a few months and taking into the circumstances of the case, we are condoning the delay.

The application is therefore, partly allowed at the admission stage itself with the direction to the respondents to re-enter the name of the applicant in the casual labour register and ^{consider his case for} ~~giving~~ him further engagement on the basis of seniority of number of days he has put in w.e.f. the ceasing of service i.e. 30.06.86. The respondents shall comply this direction within a period of three months from the date of receipt of a copy of this order. The respondents shall also inform the applicant that the Sl. No. at which his name has been re-entered at that period. No costs.

gurushankaran 10/8/93
(S. Gurushankaran)

Member (A)

J. P. Sharma
(J. P. Sharma)

Member (J)