

Central Administrative Tribunal
Principal Bench, New Delhi.

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OA-2253/2004

New Delhi this the 19th day of December, 2005.

Hon'ble Shri Shanker Raju, Member(J)

1. Sh. Mahtab Singh,
S/o Sh. Puran Singh,
Train Lighting Khallasi,
Under Train Lighting,
S.K. Line, Delhi Junction,
Delhi.
2. Sh. Bir Bahadur,
S/o Sh. Kubar,
Zamadar/Khallasi,
Under Vigilance Branch,
Baroda House,
New Delhi.
3. Sh. Chhanoo Lal,
S/o Sh. Munna Lal,
Senior Khallasi,
Under Dy. CAO/T,
S.E. Road,
Northern Railway,
New Delhi.
4. Sh. Kishan Singh,
S/o Sh. Bhawan Singh,
J.A.A.,
Under Dy. CAO/T,
S.E. Road,
Northern Railway,
New Delhi.
5. Sh. Kishori Lal,
S/o Sh. Madho Ram,
Mason,
Under Section Engineer(Works),
Northern Railway,
New Delhi-55.
6. Sh. Ram Pal,
S/o Sh. Ram Jiwan,
Khallasi,
Under Section Engineer (Works),
Northern Railway,
New Delhi-55.

7. Sh. Des Raj,
S/o Sh. Sukhdev,
Khallasi,
Under Section Engineer(Works),
Northern Railway,
New Delhi.

8. Sh. Khakkas Sahu,
S/o Sh. Janak Sahu,
ACC/Helper Khallasi,
Under S.S./E/ACC,
New Delhi.

9. Sh. Bachi Ram,
S/o Sh. Devi Dutt,
Hospital Attendant,
Under Chief Medical Superintendent,
Delhi. Applicants

(through Sh. Amit Anand, Advocate)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. The Divl. Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.

3. The Sr. Divl. Finance Manager,
Northern Railway,
State Entry Road,
New Delhi. Respondents

(through Sh. Satpal Singh, Advocae)

Order (Oral)

Claim of the applicants is for grant of arrears from the date they acquired temporary status till their regularization. The decision of the Hon'ble High Court of Delhi in CWP-5247/1997 decided on 27.10.1999

has been relied upon by the applicants to contend that being similarly circumstanced they cannot be denied the benefits of the ratio laid down by the Hon'ble High Court, which is binding.

2. Learned counsel of the applicants has also relied upon the decision rendered in OA-2970/2003 (*Sahib Singh Vs. U.O.I. & Ors.*) on 21.7.2005 wherein similar view was taken.

3. On the other hand, respondents' counsel, by referring to a decision rendered in OA-2966/2003 (*Saran Singh Vs. U.O.I. & Ors.*) on 6.10.2005 by a Co-ordinate Bench, stated that in the Full Bench's decision the decision of the Hon'ble High Court in *Mahavir and Ors. Vs. U.O.I. & Ors.* (2000(3)ATJ 1) where decision in *Jagdish Prasad Vs. U.O.I. & Ors.* (98(2002)DLT 837(FB)) has also been referred wherein it is held that the cause of action is not continuous and had arisen before coming into operation of this Tribunal before 1.11.1985, the Court would have no jurisdiction. As such, this O.A. is liable to be dismissed.

4. On careful consideration of the rival contentions of the parties, ratio deci dendi of the case is what legal has been decided and it has to be inferred from cumulative reading of the facts and issue, cause of action, adjudication and conclusion thereof. Mere picking isolated portion as an obiter would not constitute the ratio deci dendi. In *Jagdish Prasad's* case (supra) where overruling *Shish Pal Singh's* case it has been held that in the matter of entry in the LCLR once the casual labour services had been dispensed with before coming into operation of the Tribunal, that would not give cause of action to the parties to approach this Tribunal. The

aforesaid ruling and its relevance in *Saran Singh's* case was to the effect that the petitioner therein had approached this Tribunal for inclusion as a casual labour in the LCLR. Accordingly, in that conspectus and context, the cause of action having been found a continuous one whereas the controversy in the present case is solely rests upon the decision of the Division Bench in *Banwari Lal's* case (WP No.2463/1998) has been relied upon wherein a decision of this Tribunal where difference of arrears of salary i.e. from the stage of grant of temporary status till regularization, had been found to be recurring and continuous cause of action.

5. It is trite law that in the matter of pay and allowances, unless paid, constitute continuous cause of action which makes the cause of action as a recurring one till the grievance is satisfied.

6. In this view of the matter, decision of the Full Bench of the High Court and its relevance by the Single Bench in *Sri Ram's* case is distinguishable and applicable in case of entry of a casual labour in LCLR but would not hold good for pay and allowances where the Hon'ble Supreme Court in *Bhagwan Shukla Vs. U.O.I.* (1995(2) SLJ 30) in the matter of pay and allowances cause of action has been stated to be a continuous one.

7. In the result, the present issue in all fours is covered by the decision of the Division Bench of this Tribunal in *Sahib Singh's* case as well as the decision of the Hon'ble High Court in *Banwari's* case and accordingly this O.A. succeeds. Respondents are directed to consider

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grant of arrears of pay and allowances to the applicants, within a period of three months from the date of receipt of a copy of this order.

No costs.

S. Raju
(Shanker Raju)
Member(J)

/vv/