

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO.360/2004

M.A. NO.302/2004

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New Delhi, this the 22nd day of December, 2004

HON'BLE MR. SARWESHWAR JHA, MEMBER (A)

1. Raghubir Singh S/o Shri Jhuttar Singh,

2. Om Parkash S/o Shri Jagmal,

Both are resident of H.No.T-107, Old Nangal,
Delhi Cantt-10.

... Applicants

(By Advocate : Shri Yogesh Sharma)

Versus

1. Union of India through the General Manager,
North Western Railway, Jaipur

2. The Divisional Railway Manager,
North-Eastern Railway, Jaipur Division,
Jaipur

... Respondents

(By Advocate: Shri R.L. Dhawan)

ORDER

At the outset, MA No.302/2004, seeking joining together by the applicants on the ground that the cause of action and the relief sought are identical and similar in their cases, is allowed.

2. This Original Application has been filed against the action of the respondents whereby they have not considered the cases of the applicants for their reengagement in preference to juniors from the Live Casual Labour Register.

3. The applicants were engaged as casual labourers with the respondents in the year 1982 under P.W.I. Bandikui and continued with them till 20.5.1983 along with a number of other persons. Referring to the Railway Board's instructions regarding preparation of Live Casual Labour Register and maintenance thereof for reengagement and regularization of such labourers, it has been alleged by the applicants that the Jaipur Division of the respondents did not prepare the said register, as a result of which, a number of OAs were filed during 1990-1992 with this Bench of the Tribunal and directions were given to the respondents to prepare such a Register vide order dated 20.4.1992, and the applicants were shown in the said Register at serial No.603 and 693 respectively. They approached the Assistant Engineer, Bandikui for their reengagement several times; but despite assurances


having been given to them for their reengagement in their turn, the respondent No.2 engaged a number of junior persons from the Live Casual Labour Register upto serial No.1118 or more. They also engaged freshers/outsideers from the open market ignoring the claim of the applicants.

4. The respondents have, however, submitted that the applicants' case is hopelessly barred by limitation, as they have filed this OA after 21 years of their having been disengaged. They have no record to establish that the applicants had ever worked earlier. They have maintained that records, if any, of that period have been destroyed. They have no record to suggest that representations, if any, had at all been submitted by the applicants for inclusion of their names in the Live Casual Labour Register. In this regard, the learned counsel for the respondents has referred to the decisions of the Hon'ble Supreme Court in the case of **Rattan Chandra Sammanta vs. Union of India & Others** (JT 1993 (3) SC 418), in which, among other things, it has been held that "delay deprives a person of the remedy available in law, a person who has lost his remedy by lapse of time loses his right as well". A reference has also been made to the Full Bench decision of this Tribunal in **Mahavir & Ors vs. Union of India & Others** (ATJ 2000 (3) page 1) in which it has been held that limitation period prescribed under Section 21 of the Administrative Tribunals Act, 1985 is applicable in such cases. Reliance has also been placed on the decisions of the Hon'ble Supreme Court in **P.K. Ramachandran v. State of Kerala** (JT 1997 (8) SC 189), in which it has been held that "law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribed and the Courts have no power to extend the period of limitation on equitable grounds".

5. The applicants, taking me through their rejoinder, have contended that it is wrong on the part of the respondents to have said that their names did not figure in the Live Casual Labour Register. They have also argued that limitation does not apply to their case, as there is a cause of action for them on every engagement of a junior person from the Live Casual Labour Register or from the open market. Their rejoinder, however, does not throw any light as to whether they had made any representation for inclusion of their names in the Live Casual Labour Register. Moreover, the applicants worked with the respondents in the year 1982, i.e., about 21 years ago.

6. During the course of argument, the learned counsel for the respondents has invited attention to the provisions of IREM Vol. II in which, among the requirements for providing documentary proof of service a casual labour is given a Card on which his photograph, duly attested, is pasted and another photograph is pasted on the Live Casual Labour Register. There are other particulars also as given in the said provisions, which are to be recorded in the Service Card. These include 10 items including name of the employee, father's name, date of birth, age, personal marks of identification, date of

engagement, date of termination, nature of job, signature of the Supervisor, and name and designation of the Supervisor. It has been submitted by the learned counsel that no such details are available in the case of the applicants. Reference has also been made to the departmental instructions regarding preservation of old records as issued vide Circular No.831 dated 16.7.1962, in which among the documents listed are Muster Rolls, which are to be preserved only for five years. None of the other documents listed in the Circular has a prescribed life of more than 5 years, excepting in the case of Confidential Reports, Service Books including leave accounts and personal files in which cases, the period prescribed for preservation is 15 years after retirement. It is thus observed that the said records in respect of the applicants could not have been available with the respondents after 21 years. In any case, the law of limitation appears to be dominantly applicable in the present case. I do not, therefore, see any merit in the case of the applicants and accordingly the OA is dismissed. No costs.


(Sarweshwar Jha)
Member (A)

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