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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA, 1346/92

Date of Decision: 06.11.1992

Shri Amir Hussain

Applicant

Versus

Union of India & Ors.

Respondents

Shri B.K. Batra

Counsel for the applicant

Shri H.K. Gangwani

Counsel for the respondents

CORAM:

The Hon'ble Vice Chairman Shri P.K. KARTHA.

The Hon'ble Member Shri B.N. DHOUNDIYAL.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter, or not? *Yes*

J U D G E M E N T

(of the Bench delivered by
Hon'ble Member Shri B.N.DHOUNDIYAL)

This OA has been filed by Shri Amir Hussain, Ex-casual labour Carpenter, who is aggrieved that his name has not been entered in the Live Casual Labour Register even though he had acquired temporary status.

2. The applicant was appointed as a Casual Labour temporary Carpenter under I.O.W. Hapur, Northern Railway. According to the applicant, he has worked from 15.1.69 to 1981. However, as the casual labour cards were issued only in 1973, the period for which he worked from 1969 to 1973, i.e 2293 days have not been taken into account. He has not been assigned any duty after 1981, even though, his juniors have continued to work. The respondents have not placed his name in the Live Casual Labour Register and as such, he has not been offered any work. He approached AEN/IOW, Hapur for re-engagement several times and submitted his representations dated November 1983, *hw*

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December 3, 1986 and January 11, 1991 without any success. He has prayed that the respondents be directed to reinstate him as Carpenter and regularise his service in that capacity with all consequential benefits.

3. The respondents have contended that the applicant was recruited as a temporary carpenter from 4.1.73 and continued upto 27.2.79. No Casual Labour Record is available before 1.1.1973, even though during that period, the casual employees were given flat cards in which the number of working days were entered. The applicant has not enclosed any copy of this card and there is no record with the respondents to show that he had worked during this period. According to them, the applicant had left on his own accord and did not turn up for appointment after 27.2.79. Though the Live Casual Labour Register has been maintained, but according to the existing instructions, the names of those who have not approached for employment even after two years are deleted from the Register.

4. We have gone through the records of the case and heard the learned counsel for both parties. The learned counsel for the respondents has raised a preliminary objection regarding the limitation as the applicant has not worked since 1981 and has filed the application after a long delay in 1992. In our opinion, the process of engagement of casual labourers borne on the Live Casual Labour Register is a continuous one and non-engagement of such a casual worker would be in the nature of a continuing cause of action. The respondents have admitted that the applicant has completed 160 days continuously in one spell and had acquired temporary status and was enjoying all the rights of temporary carpenter. We are not persuaded by the argument of the respondents that his name can be deleted from the Live Casual Labour Register on the grounds of abandonment of service.

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Para 2004 of the Indian Railway Establishment Manual, 1990 clearly mentions that casual labourers are entitled to a notice before their services^{by} can be disengaged. The respondents have not given such a notice to the applicant.

5. In the conspectus of the facts and circumstances of the case, the applicant is entitled to succeed. We therefore, order and direct as follows:-

1. The name of the applicant shall be entered in the Live Casual Labour Register maintained by the respondents in accordance with his seniority on the basis of period of service already admitted by the respondents.
2. The respondents shall give an opportunity to the applicant to furnish proof regarding his service during the other periods. In case, it is found that he has served for a longer period, his seniority in the Live Casual Labour Register should be changed accordingly.
3. The applicant shall be engaged in preference to his juniors and outsiders and his case shall be considered for regularisation in accordance with his seniority in the Live Casual Labour Register.
4. There will be no order as to costs.

B.N. Dhoondiyal
(B.N. DHOUNDIYAL) 2/11/92
MEMBER(A)

amg
6/11/92
(P.K. KARTHA)
VICE CHAIRMAN(J)

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