

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

HON. SHRI R.K. AHOOJA, MEMBER (A)

(b)

NEW DELHI, THIS 26th DAY OF JUNE 1997.

OA NO. 1441/92

1. SHRI BHAGWAN DASS, S/o Shri Khargi
2. SHRI RANVIR SINGH, S/o Sh. Hotam Singh
3. SHRI NARAIN SINGH,
S/o Shri Chandra Bhan Singh
4. SHRI DEVI PRASAD, S/o Sh. Shyamlaal
5. SHRI RAM BAHADUR, S/o Sh. Kallu
6. SHRI LALLU PRASAD, S/o Sh. Ghasita
7. SHRI SHIVDEEN, S/o Sh. Magan
8. SHRI RAM BABU, S/o Sh. Bhaiyalal
9. SHRI PEER MOHAMMAD
S/o Sh. Munawwar Khan
10. SHRI SHIROMANI, S/o Sh. Ramsy Yadav
11. SHRI BUDDHA PRAKASH, S/o Deena
12. SHRI GANGA RAM, S/o Sh. Bhoniya
13. SHRI RAM DHIN, S/o Sh. Sukhru
14. SHRI BHOORA alias SHIV-BHAW
S/o Sh. Dhaniram

all residents of
C/o D.K. Jain
D-32 (Outhouse)
Rouse Avenue
Minto Road
NEW DELHI

...APPLICANTS -

(By Advocate - Shri H.P. Chakravarty)

VERSUS

1. UOI through the Secretary
M/o Railways, Railway Board
Rail Bhawan
NEW DELHI
2. The D.R.M.
Central Railway
JHANSI

..RESPONDENTS

(By Advocate - Shri H.K. Gangwani)

JKW

contd...2/-

-2-

ORDER

(X)

1. The applicants, 14 in number, claim that they have worked with the respondents, D.R.M. Central Railway, Jhansi, as Casual Labour (CL) for various periods from 1970 onwards. Some of them claim to have the relevant CL cards while others allege that the respondents for mala fide reasons did not issue the service cards to them. They allege that in order to avoid their re-engagement/regularisation, the respondents issued orders No.P.271/4/EG dated 21.11.86 directing their subordinates for termination of services of bogus card holders. This order contained a list of about 450 CLs whose cards were said to be bogus and some of the petitioners were also shown in that list, even though they had genuine service cards. It is the case of the applicants that despite instructions issued from time to time to give preference to those who had already worked over their juniors and freshers/outsiders, the respondents have not re-engaged them even though work was available and juniors and outsiders were engaged. Names of some of these juniors have also been mentioned in the O.A. The applicants approached the Tribunal seeking a direction for their re-engagement and regularisation as per provisions of Chapter XX of the Indian Railway Establishment Manual (IREM).

2. The respondents filed a short reply on the question of interim relief. However, no detailed reply, despite numerous opportunities, was filed by the respondents. In the short reply, they cited the case of applicant No.3, Narain Singh, who was engaged as CL w.e.f. 1.12.83 on the production of a casual labour card which was later on found to be bogus. The respondents say a notice was issued to him but this was never replied to and instead he left the job and did not again appear. The respondents state that the cases of other applicants are also similar and they deny that they had the genuine CL cards. In their rejoinder, the applicants however denied that a notice was ever issued to applicant No.3 or that he left the job on his own accord.

3. I have heard the 1d. counsel for both the parties. Shri Chakraborty, 1d. counsel for the applicants, pointed out that though in its order dated 17.7.92 the Tribunal had given an interim direction to the respondents to consider the applicants for engagement as CL if any vacancy existed, in preference to juniors and outsiders, the respondents had paid scant regard to this direction and none of the applicants had been re-engaged even though outsiders were brought in. Shri Gangwani, 1d. counsel for the respondents, on the other hand submitted that since the CL cards of the applicants were bogus, it could not be said that they had any basis for claiming seniority whatsoever.

4. I have carefully considered the matter. The applicants themselves admit that in the 1986 orders mentioned above, a list of 450 CLs who were alleged to have secured employment on the basis of bogus CL cards was annexed and the same included the names of ~~those~~ some of the applicants. They thereafter took no action to have this position corrected. They claim that they approached the respondents through various representations and sought to achieve through departmental action the relief which others sought through court action. On this account, they should not be made to suffer. I do not consider that it is the function of the Tribunal to make fact adjudication as to whether CL cards were really bogus or not. The fact remains that on the ⁰² ~~demands~~ of the applicants themselves, a list containing the names of at least some of them was circulated by the respondents stating that their CL cards were bogus. After a gap of six years, the applicants have filed this O.A. and want a direction to be issued to the respondents to re-engage them on the basis of their service. The credit of such past service can be given, however, only if it was obtained on legitimate basis. If the applicants have not sought relief for six years regarding the alleged bogus status of their CL cards, it is too late in the day for them to obtain the consequential relief of re-engagement and regularisation. It has

(a)

been held by the Supreme Court in STATE OF PUNJAB VS. GURDEV SINGH 1991 (4) SCC 1 that the party aggrieved by an order has to approach the court for relief of declaration that the order against him is inoperative and not binding upon him within the prescribed period of limitation. Similarly in S.S. RATHORE VS. STATE OF M.P. 1989 (11) ATC 913 = AIR 1990 SC 10, it has been held that repeated unsuccessful representations do not provided by law do not enlarge the period of limitation. The applicants having failed to seek a remedy against the order by which their names were included in the list of bogus card holders cannot now be granted the relief they claim.

In the light of the above discussion, the O.A. is dismissed. No order as to costs.

R.K. Ahuja
(R.K. AHOOJA)
- MEMBER (A)

FAV/