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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.2227/92 Date of decision: 21.09.1993.

Shri Raja Ram ...Petitioner

Versus

Union of India through the General Manager, Northern Railway, New Delhi & Others ...Respondents

Coram:- The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. J.P. Sharma, Member (J)

For the petitioner Shri B.K. Batra, Counsel.

For the respondents Shri B.K. Aggarwal, Counsel.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

We have heard Shri B.K. Batra and Shri B.K. Aggarwal, learned counsel for the petitioner and respondents respectively.

2. The case of the petitioner is that he was appointed as casual labour khallasi under IOW Moradabad. He worked there from 10.9.1977 to 24.12.1978. He worked again under I.O.W. Special CH from 16.9.1984 to 14.1.1985. Since he had worked for more than 120 days' continuously he is stated to have acquired temporary status. His grievance is that he has not been assigned any duty after 14.1.1985. He further sumits that according to the Railway Board's circular dated 22.10.1980, any casual labour who has worked in the past and whose service had been retrenched because of non-availability of work has to be given preference over others for employment in the Railways. By way of relief he has prayed that the respondents be directed to reinstate the petitioner as casual labour khallasi with consequential benefits with a further direction to regularise

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his service with reference to the next junior who has been appointed on regular basis. In support of his service the petitioner has filed a photo copy of the record of service as casual labour. The particulars of service he has rendered are given at page 9 of the paperbook. While the entries of the 1978 are initialed by the IOW, Moradabad, the entries regarding his service in four spells from 16.9.1984 to 14.1.1985 are not certified in the column provided by any official.

3. The respondents in their counter-affidavit have taken the stand that service of the petitioner was never terminated. He left the job of his own volition in 1978. He was never employed with the respondents after 24.12.1978, as indicated in the service particulars furnished by the Assistant Engineer Moradabad vide letter dated 8.10.1982, copy placed at Annexure R-1 annexed to the counter-affidavit. The petitioner was neither given any work after 24.12.1978 nor did he make any representation to the respondents. They further submit that the petitioner cannot make request for reinstatement/reengagement after 14 years after he had left the service of his own volition in December, 1978. They also deny that the petitioner has been conferred temporary status. The respondents further affirm that the entries made in regard to the service spells in 1984 and 1985 are fictitious and bogus.

4. We have considered the submissions made by the learned counsel for the petitioner and respondents. In Ratam Chandra Sammanta & Ors. vs. The Union of India & Ors. reported in JT 1993 (3) SC 418. The Supreme Court has dealt with a case of casual labours on the

Railways who were said to have been retrenched between 1975 and 1979. They prayed that their names should be included in the Live Casual Labour Register and that they should be reemployed with the Railways according to their seniority. Their Lordships in Ratam Chandra Sammanta's (supra) case have held that:-

> "Two questions arise, one, if the petitioners are entitled as a matter of law for re-employment and other if they have lost their right, if any, due to delay. Right of casual labourer employed on projects, to be re-employed in railways has been recognized both by the Railways and this Court. But unfortunately the petitioners did not take any step to enforce their claim before the Railways except sending a vague representation nor did they even care to produce any material to satisfy this Court that they were covered in the scheme framed by the Railways. It was urged by the learned Counsel for petitioners that they may be permitted to produce their identity cards etc., before opposite parties who may accept or reject the same after verification. We are afraid it would be too dangerous to permit this exercise. A writ is issued by this Court in favour of a person who has some right. And not for sake of roving enquiry leaving scope for manoeuvring. Delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation a person who has lost his remedy by lapse of time loses his right as well. From the date of retirement if it is assumed to be correct a period of more than 15 years has expired and in case we accept the prayer of petitioner we would be depriving a host of others who in the meantime have become eligible and are entitled to be claimed to be employed. We would have been persuaded to take a sympathetic view but in absence of any positive material to establish that these petitioners were in fact appointed and working as alleged by

them it would not be proper exercise of discretion to direct opposite parties to verify the correctness of the statement made by the petitioners that they were employed between 1964 to 1969 and retrenched between 1975 to 1979."

5. In the matter before us admittedly the service of the petitioner which is certified ended on 24.12.1978. The entries in the casual labour card relating to 1984 and 1985 are not certified by any Government official. The respondents have clearly come on record that the petitioner never worked with them after 1978. He left the job of his own volition. They have further submitted that he never made any representation for re-engagement and have affirmed that no such representation was received by them. He cannot, therefore, at this belated stage, in our opinion come up before the Tribunal and seek reliefs which have been adverted to above after 14 years. The delay of 14 years not only deprives him of the remedy available in law but he has also lost with the efflux of time his right to seek remedy. The O.A. is accordingly dismissed, as highly belated and suffering from laches. No costs.

(J.P. SHARMA)
MEMBER(J)

(I.K. RASGOTRA)
MEMBER(A)

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