

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-2564/92

New Delhi this the 11th day of September, 1997.

Hon'ble Dr. Jose P. Verghese, Vice-Chairman(J)
Hon'ble Sh. S.P. Biswas, Member(A)

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1. Sh. Jaswant Singh
S/o Sh. Udmī Ram
2. Sh. Suresh Kumar
S/o Sh. Ram Singh
3. Sh. Lal Singh,
S/o Sh. Udmī Ram
4. Sh. Ajit Singh
S/o Sh. Rai Singh
5. Sh. Suraj Bhan
S/o Sh. Pahlad Singh
6. Sh. Ajit Singh
S/o Sh. Lal Singh
7. Sh. Amar Singh
S/o Sh. Maman Singh

(Residing at H.No.599/6-- JB Block,
Jahangir Puri, New Delhi) Applicants

(through Sh. V.P. Sharma, advocate)

versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Secretary,
Railway Board,
Rail Bhawan,
New Delhi.
3. The Divl. Railway Manager,
Northern Railway,
Bikaner.

.... Respondents

(through Sh. R.L. Dhawan, advocate)

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The short question for determination is whether the applicants in this O.A., who were casual labourers in the Northern Railway, Loco Shed non-recognised and non-subsidised Canteen, Rewari in 1980-83, are legally entitled for re-engagement as casual labourers against any post in Railways.

2. As per counsel for the applicants, their claims are covered under Rule 2001 of the Indian Railway Establishment Manual. The learned counsel further argued that the applicants' case is also covered by the decision of the Hon'ble Supreme Court in the case of Catering Cleaners of Southern Railway Vs. Union of India and another (AIR 1987 SC 777) wherein it was held that persons who were engaged in the catering department by the contractors are to be treated as casual labourers of the Railways and the applicants' case falls in the same category. He further contended that Respondent No.2 had collected all the service particulars of the casual labourers who were working in such canteens including those casual labourers who were working at various Loco Shed Canteens of Northern Railway at Bikaner and Lalgaria etc. The learned counsel would submit that the persons similarly situated and working in such canteens have since been regularised and re-engaged in Railway services whereas identical facilities have been denied to the applicants herein. The action of the respondents, therefore, is in violation of Articles 14 & 16 of the Constitution.

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3. The respondents have denied the claims and have argued vehemently on grounds of jurisdiction as well as limitation. The problems of such employees working at Rewari should have been taken up at the Jodhpur Bench and this case does not fall with the territorial jurisdiction of Principal Bench. That apart, all these applicants were engaged in the year between 1980 to 1983 whereas the applicants approached this Tribunal only in 1992 after a lapse of 9 years.

4. We find some force in the contention of the learned counsel for the respondents that the applicants have approached this Tribunal after a period of inordinate delays. As is well settled, delay deprives a persons not only the right but also the remedy available in law (See UOI Vs. R.C. Samanta JT 1993(3)SC418).

5. Moreover, as per the decisions of the Apex Court in the case of M.M.R. Khan and Ors. Vs. U.O.I. & Ors. (1990(Supp)SCC 191), it has been held that employees of non-statutory & non-recognised canteens stand on a different footing and are not entitled to claim status of Railway servants. It has been further held that the employees of non-statutory (recognised) canteens will be treated as Railway servants with effect from 01.04.1990. Whereas, the canteens in which the applicants claim to have been engaged was un-recognised and unsubsidised one and that too they had worked between 1980 to 1983, much

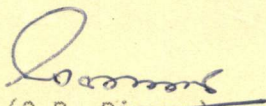
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prior to 1.4.90. They did not do any work in any one of the Railway departments. It is evident from the materials placed before us as well as oral submissions of both the parties that the applicants herein were engaged by the Managing Committee of the non-recognised and un-subsidised canteen of the loco shed and the administration of Railways have had nothing to do with their engagements. In fact, they are not casual labourers strictly in terms of several provisions laid down under para 2001 of IREM Vol.II, 1990. The ratio arrived at in the case cited by the applicants is of no assistance. This is because the employees therein were working as catering cleaners of Southern Railway and the work they have been doing was of perennial nature and was otherwise being done by regular workmen in most of other zonal Railways in the country. In the instant case, the work that these applicants having been doing were evidently not of regular nature and in any case they had left in the year 1983, much before the Tribunal came into existence.

In the light of the facts and circumstances afore mentioned, the application fails being devoid of merits and also because of being badly barred by limitation. The application is accordingly dismissed.

No costs.


(S.P. Biswas)
Member(A)


(Dr. Jose P. Verghese)
Vice-Chairman(J)