In the Central Administrative Tribunal
Principal Bench: New Delhi

(4)

1. OA No.2943/92 Date of decision:24.12.1992.

Union of India through the General Manager, Northern Railway & Others ...Petitioners

Versus

Baboo Lal & Another ...Respondents

2. 2944/92

Union of India & Others ...Petitioners

Versus

Ram Kishan & Anr. ...Respondents

3. OA 2945/92

Union of India & Others ...Petitioners

Versus

Jagdish Chand & Anr. ...Respondents

4.OA 2946/92

Union of India & Others ...Petitioners

Versus

Ram Sumer ...Respondent

5. OA 2947/92

Union of India & Others ...Petitioners

Versus

Kudai & Anr. ...Respondents

6. OA 2948/92

Union of India & Others ...Petitioner

Versus

Ram Jag & Anr. ...Respondents

7. OA 2960/92

Union of India & Others ...Petitioners

Versus

Khetish Mandal ...Respondent

8. OA 2961/92

Union of India & Others ...Petitioners

Versus

Laxman Singh ...Respondent

9. OA 2962/92

5

Union of India & Others ... Petitioners

Versus

Khederoo & Ors Respondents

10. 2979/92

Union of India & Another Petitioners

Versus

Ram Piarey & Anr Respondents

11. O.A. 2980/92

Union of India & Another Petitioner

Versus

Kedar Respondents

12. O.A 2981/92

Union of India & Another Petitioner

Versus

Murli Respondents

13. O.A. 2982/92

Union of India Another Petitioner

Versus

Ram Jagat Respondents

14. 2983/92

Union of India & Another Petitioner

Versus

Ram Ashrey Respondents

15. O.A. 2984/92

Union of India & Another Petitioner

Versus

Sher Bahadur & Others Respondents

16. 2985/92

Union of India & Anr Petitioner

Versus

Daya Ram Respondents

6

17. O.A. 2986/92

Union of India & Another — Petitioner

Versus

Triveni — Respondents

18. O.A.2989/92

Union of India & Anr — Petitioner

Versus

Mithai Lal — Respondents

19. O.A. 2990/92

Union of India & Another — Petitioner

Versus

Ravinder Kumar — Respondents

20. O.A.2991/91

Union of India Another — Petitioner

Versus

Mustaq Ahmed — Respondents

21. O.A.2992/92

Union of India & Anr — Petitioner

Versus

Surender Kumar — Respondents

22. O.A. 3013/92

Union of India & Anr — Petitioner

Versus

Ram Kishan — Respondents

23. O.A. 3014/92

Union of India — Petitioner

Versus

Sarjoo Singh — Respondents

7

24. O.A. 3015/92

Union of India Anr ... Petitioner

Versus

Ajit Singh & Ors ... Respondents

25. O.A. 3016/92

Union of India Another ... Petitioner

Versus

Chander Mani & Ors ... Respondents

26. O.A. 3017/92

Union of India & Anr ... Petitioner

Versus

Prabhoo & Ors ... Respondents

27. O.A. 3018/92

Union of India Anr ... Petitioner

Versus

Chander Bhan & Ors ... Respondents

28. O.A. 3019/92

Union of India Anr ... Petitioner

Versus

Gaanga Ram & Ors ... Respondents

29. 3020/92

Union of India & Anr ... Petitioner

Versus

Birju & Ors ... Respondents

30. O.A. 3021/92

Union of India & Ors ... Petitioner

Versus

Shiv Dutt & Ors ... Respondents

(8)

31. O.A. 3022/92

Union of India & Others Petitioners

Versus

Suresh Kumar & Ors Respondents

32. O.A. No. 3023/92

Union of India & Ors. Petitioners

Versus

Om Prakash & Ors Respondents

33. O.A. No.3024/92

Union of India & Ors. Petitioners

Versus

Siri Ram & Ors Respondents

34 O.A.3091/92

Union of India & Ors. Petitioners

Versus

Bindeshwari Respondents

35. O.A. 3103/92

Union of India & Ors. Petitioners

Versus

Ghirow & Ors Respondents

36. O.A. 3104/92

Union of India & Ors. Petitioners

Versus

Ram Garib & Ors Respondents

37. O.A. 3105/92

Union of India & Ors. Petitioners

Versus

Kanhaiya Lal & Ors Respondents

(9)

38. O.A. 3107/92

Union of India & Anr		Petitioners
	Versus	
Hem Chander & Ors		Respondents

39. O.A. 3108/92

Union of India & Anr		Petitioners
	Versus	
Ram Sukh & Ors		Respondents

40. O.A. 3109/92

Union of India & Others		Petitioners
	Versus	
Ram Ashrey & Ors		RespOondents

41. O.A. 3145/92

Union of India & Ors		Petitioners
	Versus	
Gulab & Ors		Respondents

42. O.A.3146/92

Union of India & Ors		Petitioners
	Versus	
Sudarshan Singh & Ors		Respondents

43. O.A. 3147/92

Union of India & Ors		Petitioners
	Versus	
M. Bahadur & Ors		Respondents

(10)

44. O.A. 3148/92

Union of India & Ors ... Petitioners

Versus

Bachan Singh ... Respondents

45. O.A. 3140/92

Union of India & Ors ... Petitioners

Versus

Piarey & Ors ... Respondents

46. O.A. 3150/92

Union of India & Ors ... Petitioners

Versus

Bhikari Ram & Ors ... Respondents

47. O.A. 3184/92

Union of India & Ors ... Petitioners

Versus

Sudhir Mandal ... Respondents

48. O.A. 3185/92

Union of Inia & Ors ... Petitioners

Versus

Ram Lakhan ... Respondents

49. O.A.3186/92

Union of India & Ors ... Petitioners

Versus

Respondents

Bal Kishan ... Respondents

50. O.A. 3187/92

Union of India & Ors ... Petitioners

Versus

Ramesh ... Respondents

51. O.A. 3188/92

Union of India & Ors Petitioners

Versus

Ram Achal Respondents

52. O.A. 3189/92

Union of India Ors Petitioners

Versus

Sita Ram Respondents

53. O.A.3200/92

Union of India & Ors Petitioners

Versus

Sukhdev & Ors Respondents

54. O.A. 3201/92

Union of India & Ors Petitioners

Versus

Mahender Singh & Ors Respondents

55. O.A. 3203/92

Union nof India & Ors Petitioners

Versus

Bhuneshwar Mandal Respondents

Contd....

10

56. O.A. 3204/92

Union of India & Ors Petitioners Petitioners

Versus

Hub Raj Respondents

57. O.A. 3205/92

Union of India & Ors Petitioners

Versus

Ram Lal Respondents

58. O.A. 3206/92

Union of India & Ors Petitioners

Versus

Jhangoo Respondents

59. O.A.3207/92

Union of India & Ors Petitioners

Versus

Gian Chand Respondents

60. O.A. 3220/92

Union of India & Ors Petitioners

Versus

Badri Prasad Respondents

(13)

Coram:-

The Hon'ble Mr. Justice Ram Pal Singh, Vice-Chairman (J)

The Hon'ble MR. I.K. Rasgotra, Member(A)

For the petitioners Shri R.L. Dhawan, Counsel

For the respondents Shri S.K. Sawney, Counsel.

(Judgement of the Bench delivered by Hon'ble Mr. I.K. Rasgotra, Member (A))

This batch of Applications has been filed by Union of India through General Manager, Northern Railway, New Delhi against the respondents named therein challenging the order/award dated 7.2.92 passed by the Presiding Officer, Central Government Industrial cum-Labour Court, New Delhi, entertaining the belated claim of the respective respondents, which order is said to be passed in violation of the provisions of law. As all these OAs raise the common issues of law and of fact we are disposing of these OAs through this common judgement. For facility of disposal we are dealing with OA-2943/92 - Union of India Vs. Baboo Lal & Another. The decision as arrived at in this case would equally be applicable to the other OAs except OA NO.3106/92 Union of India Vs. Gayadin & Others and OA 3202/92 - Union of India Vs. Mardan where the respondents are said to have expired and the respective legal heirs have not been brought on record.

2. The respondents in these cases were engaged as casual labourers during the period 1966 and 1976. In this particular case respondent No.1 was engaged as casual labourer in the year 1967 on daily rate basis at the rates prescribed by the State Government.

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14

The respondents herein filed an application in the Industrial Tribunal cum Labour Court, New Delhi under Section 33-C (2) of Industrial Disputes Act, 1947 claiming the amount of Rs.15079.80 with interest at 12% as per his claim application. This amount represents difference of pay from 15.2.1974 to 6.5.1977 between the daily wages received by the respondents and the regular scale of pay applicable to the casual labourer holding temporary status. The learned counsel submitted that the claim of the petitioner is highly belated stale and suffers from latches. This fact was pointedly brought out in the written statement filed by the petitioners herein in the Labour Court vide paragraph-4. It was pointedly stated in paragraph-4 "that the application is not maintainable and is liable to be dismissed as the application is barred by limitation/hit by principle of latches. There (is) no explanation as to why this application has been filed so late and the claim is stale." The learned counsel submitted that the learned Presiding Officer of the Labour Court in his order totally ignored the submission of the petitioner about the delay and the latches and proceeded to allow the claim of the respondents in view of the well established principles of equal pay

15

for equal work'. The learned counsel for the petitioners argued at considerable length that since the claim suffers from latches and delay the claim was filed in 1990 (LCA 434 of 1990) whereas the claim relates to the year 1967 to 1976. The petitioners have even destroyed the records relating to that period. The learned counsel relied on the judgement of the Madras Bench of the Tribunal reported in 1991 (17) CAT 803 General Manager, Southern Railway, Madras Vs. L.M. Natesan & Anr. It was held by the Tribunal that the latches and delay in filing the claim must be satisfactorily explained as to why the petitioners did not approach the Court in time. He cannot approach the Labour Court as and when he likes and try to unsettle the settled matters. As the petitioners therein had approached the Court after the lapse of 13 years the order of the Labour Court was set aside by the Tribunal. This judgement is of no help to the petitioners as the facts of the case are distinguishable from the matter before us.

3. The next point agitated by the learned counsel for the petitioners is that the Labour Court has no jurisdiction to adjudicate upon the entitlement of the claim. The Labour Court can only execute the entitlement but cannot undertake to determine the entitlement. In this respect the learned counsel relied

d

16

on Central Inland Water Transport Corporation Ltd. Vs. The Workmen & Anr. 1974 (4) SCC and M/s. Punjab Beverages Pvt. Ltd. Chandigarh Vs. Suresh Chand & Anr. 1978 (2) SCC 144. The learned counsel further cited the judicial pronouncement of the Supreme Court in Inder Pal Yadav & Ors. v. Union of India & Ors. 1985 (2) SLJ SC 58 in which the Apex Court has approved the scheme of the Railways dealing with the employment and payment of compensation to the casual labour. He further filed a copy of the decision of the Hon'ble Supreme Court reported in AIR 1988 SC 1610 between P.K. Singh & Ors. Vs. Presiding Officer & Ors. We do not subscribe to the learned counsel's contention that this case supports the petitioners.

4. Shri S.K. Sawhney, learned counsel for the respondents drew our attention to the decision of the Supreme Court reported in AIR 1969 SC 1335 Town Municipal Council, Athani Vs. Presiding Officer, Labour Court, Hubli & Others wherein the Apex Court held that a claim under Section 33-C(2) I.D. Act does not attract the provisions of Limitation Act, 1963.

5. We have heard the learned counsel of both the parties and considered the matter carefully. It is now well settled that the casual labourers on the Railways on the projects are conferred temporary status

after they have rendered continuous service for 180 days and on the open line after continuous service of 120 days subject to their over all fitness for the work for which they have been engaged. Once temporary status is conferred the respondents are entitled to the regular scales of pay and allowances as applicable to the regular Railway servants of the corresponding status. These provisions are contained in paragraph-2511 and 2303 of Indian Railway Establishment Manual and have the statutory force. Thus the respondents who were initially employed as casual labourers subsequently screened and accorded temporary status are entitled to be placed at the minimum of the regular scale of pay after they have completed 120 days continuous service as the petitioners were working on the open line. Thus the entitlement is established and the argument of the learned counsel for the petitioners that the Labour Court could not go into the adjudication of the entitlement is not acceptable. As far as the latches and staleness of the claim is concerned, we observe from the award of the Industrial Tribunal-cum-Labour Court has allowed the payment as admitted by the petitioners vide paragraph-5 of the order. The said paragraph is reproduced below:-

> "5. The Management has filed assumed chart at the making of the court without admitting the claim of the workmen, according to which, the amount payable to the workman, if his claim is accepted, works out to Rs.6514/- as per details given below.

(18)

Chart.	Period	Amount
Ex.M.1.	15.2.74 to 5.5.77	Rs.6514/-

The representative for the workman has accepted this amount as correct. Hence the claim of the workmen is computed at Rs.65.14/- rounded off to Rs.6514/- which the Mangement is directed to pay to the workmen within two months from to day failing which it shall be liable to pay interest at 12% from today till actual payment."

To our queries the learned counsel confirmed that the amount payable to Shri Baboo Lal, Respondent No.1 herein amounting to Rs.6514/- is the amount which is his entitlement being the differential between daily rates of pay and if he were paid at the minimum of the regular scale of pay after he had completed continuous service of 120 days.It is obvious that Respondent No.1 was conferred temporary status not on completion 120 days continuous service but from a date arbitrarily chosen by the petitioners. Further the latches and delay do not form an impediment at this stage when the petitioners have themselves accepted that this amount is payable to the workmen for the period 15.2.1974 to 5.5.1977, i.e. for the period when he completed continuous service of 120 days and 15.2.1974 the date arbitrarily chosen by the petitioners for granting regular scale of pay. The question of

(19)

relevant records having been destroyed and the petitioners being placed in a situation where they cannot verify the claim, therefore, does not arise. We also cannot support the claim of the petitioners for setting aside the award of the Tribunal as their claim is based on an arbitrary decision.

In the facts and circumstances of the case, we are of the opinion that the award of the Labour Court does not merit our interference. These OAs are accordingly dismissed. No costs.

Let a copy of this judgement be placed in the all the case-files listed together.

(I.K. Rasgotra)
Member(A) 24/12/92

(Ram Pal Singh)
Vice-Chairman(J)

True Copy
Attested
24/12

PRITAM SINGH
Court Officer
Central Administrative Tribunal
Principal Bench
Faridkot House, New Delhi