

In the Central Administrative Tribunal
Principal Bench: New Delhi

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

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

17. O.A. 2986/92

Union of India & Another

Petitioner

Versus

Respondents

Triveni

18. O.A. 2989/92

Union of India & Anr

Petitioner

Versus

Respondents

Mithai Lal

19. O.A. 2990/92

Union of India & Another

Petitioner

Versus

Respondents

Ravinder Kumar

20. O.A. 2991/91

Union of India Another

Petitioner

Versus

Respondents

Mustaq Ahmed

et al.

21. O.A. 2992/92

Union of India & Anr

Petitioner

Versus

Respondents

Surender Kumar

22. O.A. 3013/92

Union of India & Anr

Petitioner

Versus

Respondents

Ram Kishan

23. O.A. 3014/92

Union of India

Petitioner

Versus

Respondents

Sarjoo Singh

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

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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

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

Respondents

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

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44. O.A. 3148/92

Union of India & Ors

versus

Petitioners

Bachan Singh

Respondents

45. O.A. 3149/92

Union of India & Ors

versus

Petitioners

Piarey & Ors

Respondents

46. O.A. 3150/92

Union of India & Ors

versus

Petitioners

Bhikari Ram & Ors

Respondents

47. O.A. 3184/92

Union of India & Ors

versus

Petitioners

Sudhir Mandal

Respondents

48. O.A. 3185/92

Union of India & Ors

versus

Petitioners

Ram Lakhman

Respondents

49. O.A. 3186/92

Union of India & Ors

versus

Petitioners

Bal Kishan

Respondents

Respondents

50. O.A. 3187/92

Union of India & Ors

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 of India & Ors

Petitioners

Versus

Bhuneshwar Mandal

Respondents

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Contd....

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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

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(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 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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(4)

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

the 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

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

the 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

for equal work.

(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

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.

We further filed a counter-objection by

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 120 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

laches and staleness of the claim is concerned, we

observe from the award of the Industrial cum-Labour

Court has allowed the payment as admitted by the peti-

tioners 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.

disputed facts treated as facts and the same is held

Chart.

Period

Amount

Ex.M.1. 15.2.74 to 5.5.77 Rs.6514/-

The representative for the workman has accepted the amount and the Management also 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 Management is directed to pay to the workmen within two months from and before presenting the written statement to SCED but 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 account of his 120 days continuous service and the amount amounting to Rs.6514/- is the amount which is his entitlement being the differential between the daily rates of pay and if he were paid at the minimum daily rates of pay he would have to complete of the regular scale of pay after he had completed 120 days and not at the date which is arbitrarily chosen by the petitioners. Further the latches and delay do not form an impediment at this stage since all efforts will be made to expedite 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 for granting regular scale of pay. The question of

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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
PML-CB
24/12

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