

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(S)

OA.3298/92

Date of Decision: 30.7.93.

Shri Prahlad

Applicant

Versus

Union of India and others Respondents

Shri B.K. Batra Counsel for the applicant

Shri K.K. Patel Counsel for the respondents

ORAM: Hon. Shri J.P. Sharma, Member(J)

Hon. Shri N.K. Verma, Member(A)

JUDGEMENT

(delivered by Hon.Member(J) Shri J.P.SHARMA)

The applicant is aggrieved by the illegal action of termination of his services as casual labour khalasi and alleged to have been working from 1963 to 1985 with breaks in service. The case of the applicant is that he has been representing to the respondents but he has not been reengaged. A notice was issued to the respondents and Shri K.K. Patel opposed the admission and took a plea that the present application is barred by Section-21(i) of the Administrative Tribunal's Act, 1985.

2. We have heard the learned counsel for the applicant. The learned counsel referred to Rule 2005(a) of Indian Railway Establishment Manual, Volume-2 stating that a casual labourer who has worked for 120 days acquired temporary status. He has also argued that the Railway Board issued instructions that each of the casual labourer who has been discharging at any time after 1.1.81 on completion of work should continue to be borne on Live Casual Labour Register. Another circular was issued by the Railway Board in 1987 that Live Casual Labour Register should be maintained strictly as per the instructions. The learned counsel has also referred to the authority of the Hon. Supreme Court in the case of Union of India and other Vs. Vasant Lal and Ors. reported in 1992(2) SLR page 74, that the casual labourers who have worked for mandatory days and acquired temporary status were entitled to absorption in regular Class-IV services. This cannot be disputed those of the casual labourers, who were once

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engaged and continued for number of days have a right to be considered for engagement in preference to fresh recruits. However, there is nothing on record, to show that after 1985 the applicant had any time moved the Railway administration for his engagement or for bringing his name on the Live Casual Labour Register. The casual labour card filed by the applicants show that he worked for some days from the year 1963 to 1972. Thereafter, he was engaged in 1984 and discharged in 1985. The casual labour card shows that he has not constantly been engaged any time and he has been a casual worker in each year. The first representation was made by the applicant on 7.5.92. The learned counsel has also argued that the applicant had orally approached IOU Gajraula and Hapur but there is no proof to that effect.

3. The grievance should have been assailed by the applicant immediately after his discharge in 1985 by making representation to the respondents but he has not done so. Further, the applicant did not sought the judicial review within 1½ year as provided under Section 21(1) of the Administrative Tribunal Act, 1985. The application has also not moved any petition for condonation of delay which could show and explain delay in approaching the Tribunal after such a long time. The delay defeats the legal remedy which might have been available to the applicant. The applicant believed on the fact that he had been approaching the respondents for reengagement. There should have been some iota of evidence to show that the applicant has approached the respondent No.2, DRM, Northern Railway, Moradabad for bringing his name on the Live Casual Labour Register. On the other hand, it is averred that casual labourers were screened by DRM Moradabad. In view of these facts, the legal remedy available to the applicant has lapsed by own delay and laches in approaching the Tribunal. Normally limitation is liberally interpreted in case of illiterate persons. But in this case, the gap of 8 years is not at all

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explained and when there is a statutory provision of filing an application for redress of the grievances in a prescribed period, in that case, there should be some reasons to justify the fact of coming late after normal delay.

4. In view of the above said circumstances, we find that the present application is barred by limitation and is, therefore, dismissed leaving the parties to bear their own costs.

N.K. Verma 30.7.93
(N.K. VERMA)
MEMBER(A)
30.7.93

J.P. Sharma
(J.P. SHARMA)
MEMBER(J)
30.7.93

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