

Central Administrative Tribunal, Principal Bench

O.A.No.853/92

Hon'ble Shri R.K.Ahooja, Member(A)

New Delhi, this 21st day of April, 1997

Baney Singh
s/o Shri Naval Singh
Vill. Dodi
Tesh & Dist. Rewari(Haryana). ... Applicant

(By Shri Yogesh Sharma, Advocate)

Vs.

1. Union of India through
The General Manager
Northern Railway
Baroda House
New Delhi.
2. The Divisional Railway Manager
Northern Railway
Bikaner Division
Bakaner.
3. The Carriage & Wagon Inspector
Northern Railway
Delhi Jn. ... Respondents

(By Shri R.L.Dhawan, Advocate)

O R D E R

The applicant claims that he was engaged as Casual Labour in the year 1978 and worked upto 1981 in Bikaner Division at Rewari and from 28.10.1984 to November, 1985 at Carriage & Wagon Office, Delhi Junction. He alleges that he was not allowed to join duties after 1.1.1985 though he approached the respondents repeatedly. He therefore seeks a direction to quash the termination order of his service and a direction to re-engage him and to regularise his services.

2. The respondents in their reply say that the application ought to be dismissed on the ground of limitation. On merits they say that the applicant was engaged on 10.9.1984 and worked upto 9.7.1985.

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Thereafter he himself did not turn up which clearly shows that he abandoned his duties. On this account the applicant is not entitled to the benefit of the scheme for being placed on Live Casual Labour Register and for re-engagement.

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3. I have heard the counsel on both sides. Shri V.P.Sharma, learned counsel for the applicant relies on the Judgment of this Tribunal in Beer Singh Vs. Union of India in OA No.78/87 decided on 16.3.1990 by Principal Bench, in which it was held that an order of dismissal of an employee made in breach of mandatory provision of the relevant rules was totally invalid. Such an order would have no time limit and therefore there could be no plea of limitation on that ground. As regards the allegation of abandonment of employment, the learned counsel submits that this is an afterthought and no more than an excuse to deny the just claim of the applicant. Following the judgment of the Beer Singh (Supra) he argued that it was incumbent upon the respondents to issue a show cause notice to the applicant in case there was any allegation that he had himself absconded from the employment under the respondents.

4. The learned counsel for the respondents, Shri R.L.Dhawan on the other hand submits that the applicant, on his own statement, had been dis-engaged in 1985, but he filed this OA only in 1992 i.e. after a gap of seven years. The very conduct of the applicant, according to the learned counsel, shows that he was not interested in doing the job. As the applicant has slept over his claim for such a long period of seven years, his prayer is barred by limitation.

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5. I have given careful thought to the pleadings and arguments on both sides. As concluded in the Judgment of Beer Singh (supra), the question whether Casual Labour has abandoned work or not, is dependent on the facts and circumstances of each case. It was however also held that the employer is bound to send a notice to the employee in such a case calling upon him to resume his duty. I agree with the learned counsel for the respondents that a delay of seven years in taking his claim before the Tribunal is in itself a sufficient indication that the applicant had abandoned work voluntarily. If he had been interested in the work he would have sought relief much earlier. As regards the question of issuing notice, the case of the respondent is that the applicant left the work without informing the respondents' office his whereabouts. The long gap of seven years between the applicant's disengagement and his filing of this OA before the Tribunal would not support his claim. If a casual labour does not represent for re-engagement nor seeks relief from the proper forum in time, the inference is naturally against him. His right to continue his name on the Live Casual Labour Register arises only if he is retrenched and did not abandon work of his own volition. In the facts and circumstances particularly the inaction of the applicant in sleeping over his claim the inference must be drawn against him.

6. In the light of the above discussion, the OA is dismissed. No costs.

R.K. AHUJA
(R.K. AHUJA)
MEMBER (A)

/rao/