

Central Administrative Tribunal
Principal Bench, New Delhi.

(P)

OA-2157/93

New Delhi this the 8th Day of June, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman
Hon'ble Mr. B.N. Dheundiyal, Member(A)

1. Sh. Lacchhu Singh,
S/o Sh. Prabhy Dayal.
2. Sh. Megha Ram,
S/o Sh. Asha Ram.
3. Sh. Gaffar,
S/o Sh. Yushuf.
4. Sh. Bhanwar Dan Charan,
S/o Sh. Khan Dan Charan.
5. Sh. Mohammad Ushman,
S/o Sh. Nasir Khan.-
6. Sh. Chetan Ram,
S/o Sh. Ashu Ram.
7. Sh. Gerkha,
S/o Sh. Birdha.
8. Sh. Govind Ram,
S/o Sh. Pura Ram.
9. Sh. Debu Ram,
S/o Sh. Adhu Ram.
10. Sh. Sirajuddin,
S/o Sh. Mohammad Rafiq.
11. Sh. Kheta Ram,
S/o Sh. Sugna Ram.
12. Sh. Gauri Shankar Maru,
S/o Sh. Manu Lal Maru.
13. Sh. Raj Kumar,
S/o Sh. Mai Ram.
14. Sh. Babu Lal,
S/o Sh. Tara Chand.
15. Sh. Satya Narain,
S/o Sh. Piru Ram.
16. Sh. Kailash Narain,
S/o Sh. Ram Lakhlan.
17. Sh. Mahendra Kumar Tripathi,
S/o Sh. Munshi Lal Tripathi.
18. Sh. Yashin,
S/o Sh. Mahmood.
19. Sh. Sarwan Kumar,
S/o Sh. Khiraj Ram.

20. Sh. Fateh Moham, S/o Sh. Neer Mohammad.

Applicants

(By advocate Sh. V.P. Sharma)

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 Division,
Bikaner.

Respondents

(By advocate Sh. P.S. Mahendru)

ORDER(ORAL)

delivered by Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman

Affidavits have been exchanged between the parties in this O.A. Though it is not admitted as yet, we have heard the matter with the view to dispose it off finally. Accordingly, we are doing so.

The undisputed facts are these. During different periods from 1983 to 1987, the applicants were employed as casual workers in the open line. Somehow or the other, their names were not included in the live casual register. They have approached this Tribunal with a number of prayers. The prayer, in main, is that the respondents may be directed to re-engage the applicants in service and determine their seniority with others whose names find place in the live casual register.

A preliminary objection has been raised in the counter-affidavit that this O.A. is hopelessly barred by time.

Reliance is placed upon the decision of the Supreme Court in the case of Ratam Chandra Sammanta & Ors. Vs. The Union of India & Ors. (JT 1993(3)SC418.

In that case too, the petitioners therein had made a prayer for a direction to the opposite party therein to include their names in the live casual labour register after due screening and giving them re-employment according to their seniority. We may note that while dealing with a petition under

Article 32 of the Constitution, their Lordships in paragraph 6 observed:

"Delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation a person who has lost his remedy by lapse of time loses high right as well. From the date of retrenchment if it is assumed to be correct a period of more than 15 years has expired and in case we accept the prayer of the petitioner we should be depriving a host of others who in the meantime have become eligible and are entitled to claim to be employed....."

The decision of the Supreme Court is binding on us. We are, therefore, unable to grant any relief to the applicant, as prayed in the O.A., as this O.A. has been presented at a belated stage.

There can be no getting away from the fact that the respondents are bound by their own circular dated 28.8.1987. In accordance with that circular, the respondents were under ^{an} obligation to examine, on their own, the cases of such casual workers who fell within the ambit of that circular and place them in the live casual labour register. The grievance of the applicants is that they fulfilled the requirement of the circular, which, according to them is also applicable to those casual workers working in the open line. *Prima facie*, we are satisfied that the said circular is applicable to the cases of the applicants. If the applicants now

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make a proper representation to the relevant authority, it shall examine their cases on merits and in accordance with law and in the light of that circular. If it comes to the conclusion that their names are not on the live casual labour register, it shall record reasons in support of its order. If, however, it comes to the conclusion that the names of the applicants should be included in the said register, it shall direct that the same should be done. Thereafter, the applicants shall be given an offer of appointment as casual workers strictly in accordance with their placement in the live casual labour register.

Even if the names of the applicants are not found in the live casual labour register, they, like any other citizen of this country, are entitled to be considered for a fresh engagement as casual workers if and when the respondents recruit fresh casual workers and if the applicants are otherwise eligible.

The applicants shall make their representation/representations within a period of one month from the date of the receipt of a certified copy of this order. The authority concerned shall dispose of the representation/representations within a period of three months from the date of the receipt of the representation/representations.

With these directions, this O.A. is disposed of finally. No costs.

B.N. Dholiyal
(B.N. DHOUDIYAL)
MEMBER (A)

S.K. Dhaon
(S.K. DHAON)
VICE CHAIRMAN

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