

9.

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.523/1993

New Delhi, this 14th day of November, 1996

Hon'ble Mr. Justice Chettur Sankaran Nair, Chairman
Hon'ble Mr. S.P. Biswas, Member(A)

Shri Miraji Lal
s/o Piyare Lal
c/o Shri B.S. Mainee, Advocate Applicant

(By Shri B.S. Mainee, Advocate)

versus

1. General Manager
Northern Railway
Gorakhpur
2. The Divisional Rly. Manager
Northern Railway, Izatnagar Respondents

(By Shri P.S. Mehandru, Advocate)

The application having been heard on 7.11.1996, the Tribunal on this day, the 14th November, 1996 delivered the following:

ORDER

Hon'ble Mr. S.P. Biswas

The applicant a casual labourer whose services were terminated in July, 1985 by the Respondents-Railways, is aggrieved as he was not re-engaged on casual basis even after having attained temporary status. Consequently, he has sought issuance of a direction to the respondents to re-appoint him with all consequent benefits.

2. The applicant was engaged as casual labourer under the Station Superintendent, NE Railway, Farukabad where he had worked from June, 1980 to July, 1983 for a total number of 554 days. He claims to have attained temporary status after having worked for 120 days continuously. It is the case of the applicant that as per provisions contained in Railway Establishment Manual, a casual labourer who has worked for 120 days attains temporary status and is entitled to all

privileges admissible to a regular servant which includes protection of Discipline & Appeal Rules, full pay scale and allotment of quarter etc. The applicant contends that his services were wrongly terminated on 28.7.85 without holding any enquiry and without a prior notice. The applicant would further submit that any casual labourer who has worked for a considerable time in the past and is presently out of employment due to break in service because of non-availability of work is supposed to be provided with the opportunity of re-appointment as casual worker in preference to juniors. To support his contention, the applicant drew our attention to the Railway Board's decision to the effect that labourers who have been discharged at any time after 1.1.81 on account of their completion of work or want of further work are to be maintained in live casual labour register for the purpose of subsequent re-engagement.

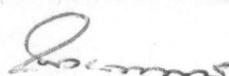
3. In the reply, the respondents have submitted that the applicant was engaged as seasonal hot-weather waterman on casual basis from 6.6.80 at Farukabad on the basis of a fake certificate for his alleged working in the same capacity at another station (Raya) from 16.7.76 to 15.12.76. The applicant was called for screening test in April, 1983 and the said certificate was found to be fake and hence name of the applicant was blacklisted for service on the Railways as per order dated 20.12.83.

4. We find that the applicant was ordered to work as hot weather staff in March, 1986 but was not allowed to do so pursuant to the order of Divisional Commercial

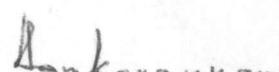
Superintendent. The applicant did not follow up his claim for five years till May, 1991. His subsequent representation in 1992 on the same line of earlier one did not yield any result. Respondents have even denied of having received any representation whatsoever from the applicant. We find the applicant decided to remain silent on his claim initially from 1986. This application is highly belated one and as such barred by limitation. Delay itself deprives a person of his remedy **avoidable in law**. In the light of the decision of the apex court in State of Gujarat Vs. P.V.Kampabat (AIR 1992 1685), no notice or enquiry is necessary for temporary employees.

5. In view of the above reasons, the application is without any merit and is accordingly dismissed. No costs.

Dated, this 14th day of November, 1996.



(S.P. Biswas) (Chettur Sankaran Nair (J)
Member(A) Chairman



/gtv/