

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 1079 of 1996

Allahabad this the 08th day of September, 1999

Hon'ble Mr. S.K.I. Naqvi, Member (J)

Ajab Singh, &/o Sri Deshraj Singh, R/o Village  
Kabirpur, P.O. Sarai Prayag, District Farrukhabad.

Applicant

By Advocate Shri Anand Kumar

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Allahabad.
3. Permanent Way Inspector, (P.Q.R.S.), Northern Railway Aligarh Junction.

Respondents

By Advocate Shri Avnish Tripathi

ORDER ( Oral )

By Hon'ble Mr. S.K.I. Naqvi, Member (J)

Shri Ajab Singh has sought for a direction to the respondents to re-engage the applicant as casual labour at Allahabad division and absorb and regularised him against Group 'D' category post. As per applicant's case, he was initially engaged as casual labour in the year 1979 and worked for about 2 years continuously, and thereby he attained the temporary status under the rules.

He further mentions that he was re-engaged on 29.1.82 under P.W.I, Hathras Junction and worked upto 05th April of 1983 and thereby performed about 333 days working at Hathras Junction. The casual-labour-service card issued to him, has been misplaced, therefore, he obtained his working certificate which is annexure A.I. After discontinuation of his service from 05.4.83, till date he was never engaged again. He has pleaded in para 4.5 that as per circular no.220-E/190-Xii-A/E IV, dated 20.8.1987 issued by General Manager (P), he is entitled to be enrolled in live-casual-labour-register. When the applicant came to know the appointment of fresh face casual labour namely Shri Shahid Ali Khan, son of Shri Zahoorul Hasan Khan, he made a representation on 28.3.1995 to D.R.M. but of no avail. The representations, preferred even thereafter, remained unrepplied, therefore, he has taken the ~~course~~ <sup>recourse to</sup> of Section 19 of the Administrative Tribunals Act, 1985.

2. The respondents have preferred their objections with the plea that the O.A. is grossly barred by limitation under Section 21 of the Act. The reply from the side of the respondents is mainly confined to the point that the <sup>contents in</sup> ~~contents of~~ the applicant that he worked for 2 years, from 1979 is totally wrong and does not get substantiated from any record. Therefore, this period is not to be taken into account for ascertaining the number of days for which the applicant alleges to have worked, for the period from 29.1.1982 to 05.4.1983, The respondents admitted

that during this period, the applicant worked for 333 days but never in continuation for 120 days and this period of 333 days terms <sup>is</sup> with several breaks in between. About Shahid Ali, it has been mentioned that he has been appointed in other unit. Moreover, the applicant left his engagement as casual labourer after 05th April of 1983 without giving his address, hence he could not be engaged thereafter.

3. Heard, the learned counsel for the rival contesting parties. Perused the record.

4. On the point of limitation, the learned counsel for the applicant has relied on (1993) 24 A.T.C. 747 Hukum Singh Vs. Union of India and Others, decided on January, 29th, 1993, wherein it has been held that "the casual labourer borne on the live casual labour register and non-engagement thereafter, gives continuing cause of action hence the application against discontinuance of service even though filed after a delay of 11 years, is not time barred." On the point of continuance of work for 120 days, he has referred para-2003 of I.R.E. Manual Volume II, 1990 Edition page 14, which gives formula to compute 120 days. According to which the period of absence under medical treatment, authorised absence, non-availability of further productive work, the days allowed as days of rest, are to be counted as the days for which the labourer worked and to be taken as in continuity for the purpose of completion of 120 days.

5. So far as the objection that the application is barred by Section 21 of the Act is concerned, I find that as per his own submission

the applicant was never engaged after 05th April, 1983 and the first representation preferred by him is dated 28.3.95 i.e. after 12 years from the date of his disengagement. The learned counsel for the applicant submits that this representation was preferred ~~with~~ when it came to the knowledge of the applicant that a fresh face casual labourer namely Shahid Ali has been engaged but there is no mention that in between this period no other fresh casual labourer was engaged. Moreover there is specific pleadings on behalf of the respondents that the applicant left the job of his own and the respondents were not <sup>given</sup> ~~given~~ any position to contact. The learned applicant counsel referred the case reported in (1993) 24 A.I.C. page 747 which is in respect of those who are on live casual labour register which is to be maintained in accordance with order dated August 14th, 1987 and it provides "that the casual labours both on projects and on open line who have been discharged before ~~the~~ 01.1.81 may also be given opportunity to be considered and placed on the live casual labour registers provided they represent to the administration on or before 31.3.1987." When this decision <sup>is</sup> taken with reference to the facts of the present case, I find that the benefit of it is not applicable to the applicant's case since he has no where pleaded or brought on record that he has preferred any representation to the administration for getting listed in live casual labour register. For those who have been discharged after 01.1.1981, their names are to be continued ~~in~~ indefinitely but in the present case, the applicant is said to have left of his own and has not been disengaged. With these facts in view, I am of the opinion that the O.A. is grossly <sup>by</sup> ~~barred~~ limitation.

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6. Secondly the plea of the applicant that he continuously worked for 120 days, therefore, he attained the status of temporary casual labourer, is also not acceptable. In support of this plea, he has filed a photocopy (annexure-1) to show that he has worked for 333 days continuously, and therefore, he is entitled to get benefit of being given temporary status under the rules. It is admitted to the respondents that the applicant worked for 333 days in between the period from 29th January, 1982 to 05th April, 1993 but it has been disputed by the learned counsel for the respondents that in between this period, he ever continuously worked for 120 days, therefore, he cannot claim for temporary status. Perusal of annexure-1 supports the contention of the learned counsel for the respondents.

7. For the above, I find that the application deserves to be dismissed and the same is dismissed accordingly. No order as to costs.

*S. M. M.*

Member ( J )

/ M. M. /