

(Open Court)

(17)

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 27th day of February, 2001

C O R A M :- Hon'ble Mr. S. Dayal, Member- A.

original Application No. 646 of 1997

Jamuna, S/o Ramtirth

R/o Village Sikrohar Mahiyapar

Post Sikrohar (Kartora), Paragna and Tahsil- Akbarpur
Faisazbad (Now Abedkar Nagar) Distt. Ambedkar Nagar.

.....Applicant.

Counsel for the applicant:- Sri K.B. Srivastava

V E R S U S

1. Union of India through the General Manager,

N. Rly. Baroda House, New Delhi.

2. Divisional Rly. Manager, N. Rly.

Hazratgang, Lucknow.

3. Divisional Superintendent Engineer 1,

N. Rly. Lucknow.

4. Divisional Engineer, Northern Railway,

Varanasi.

5. Assistant Engineer, Northern Railway,

Varanasi.

6. Inspector of works Grade- 1

Northern Railway, Varansi.

.....Respondents.

Counsel for the respondents:- Sri G.P. Agarwal

O R D E R (ORAL)

(By Hon'ble Mr. S. Dayal, AM)

This application has been filed for direction to the respondents to allow the applicant to continue to work as a labourer with all the benefits to which he is entitled. A further direction is sought to the respondents to allow the applicant to join the post of Class IV employee treating his services to be continuous from the date of his joining his service and regularise him on that post.

2. The facts mentioned by the applicant are that he had joined as casual labour (Khalasi) in the year 1975 in the railway department, Varanasi. He claimed that he worked in that capacity upto 15.03.81 and completed 240 days of work at various places. His claim is that he was included in seniority list issued by Chief Inspector Works, Northern Railway, Varanasi on 29.11.85 at serial no.160 on page 6 of the seniority list. It is mentioned that the applicant was not allowed any work since 30.07.85 and he had worked for 810 days till that time.

3. Arguments of Sri K.B. Srivastava, learned counsel for the applicant and Sri G.P. Agarwal, learned counsel for respondents have been heard.

4. Learned counsel for the applicant has drawn my attention to the bunch of transfer applications including T.A.No.1265/86 between Radhey Shyam & Ors. Vs.U.O.I. & Ors. decided on 22.8.90, in which learned counsel for the applicant claims that in similar circumstances the respondents were directed to confer the temporary status or regularise or empanel the

applicants on the post they are holding in accordance with the rules or pass specific speaking orders for reversion. It is admitted by learned counsel for the applicant that the applicant was not a party in this T. A.

5. Learned counsel for respondents has contested the relief claimed by the applicant under the provisions of Industrial Disputes Act cannot be adjudicated by the Central Administrative Tribunal as that would fall within the jurisdiction of labour court. The bar of limitation has also been advanced as a reason for rejection of the claim made by the applicant in this O.A. It is also claimed that applicant was relieved on completion of work as he was the juniormost person.

6. I find that the applicant has claimed in this application that O.A. is within period of limitation. However, I find that O.A. was filed on 26.2.97 while the applicant was admitted that he has not been allowed to work from 30.7.85 onwards. He fails to explain about the delay in pursuing his claim during this period. The learned counsel for the applicant has drawn my attention to para-25 of Supplementary Affidavit, in which the applicant had claimed that he was suffering from disease and filed this O.A. as soon as he was cured. This has been in contravention to the statement given in the O.A. that the application had been filed within time.

7. The full Bench of Central Administrative Tribunal in O.A. No.706/1996 between Mahavir & Ors. Vs. U.O.I. & Ors., 2000 (3) A.T.J. Page 1 has laid down that the

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casual labourers have a right that their names should be placed in the Live Casual Labour Register. However, limitation would apply to the cause of action, which accrues in their favour. There is no continuous cause of action available to the applicant in such cases.

8. This case before me is distinguishable as the name of the applicant was included in seniority list of casual labour as drawn up giving the position as on 30.6.85 for the office of Chief Inspector of Work, Northern Railway Varanasi by letter dated 27.11.85 (Annexure No.I to the OA). It is not the case of the respondents that the applicant was given any show-cause notice for absence/abandonment of work. The respondents are, therefore, under obligation to include his name in the Live Casual Labour Register. If the name is not included so far, the same shall be included within a period of three months from the date of receipt of a copy of this order and the applicant would get benefit in future as per rules/instructions of Railway Board from that date. If the name has already been included the applicant would be entitled to benefit from the earlier date.

9. There will be no order as to costs.



Member A.

/ Anand/