

CENTRAL ADMINISTRATIVE TRIBUNAL
 ALLAHABAD BENCH : ALLAHABAD
 ORIGINAL APPLICATION NO.708/1997

FRIDAY, THIS THE 24TH DAY OF JANUARY, 2003

HON'BLE MRS. MEERA CHHIBBER .. MEMBER (J)

1. Natthoo Singh,
 S/o Late Balloo Singh,
 R/o Village Gohawar (Hallu),
 P.O. Gohawar, District Bijnor.

2. Arvind Kumar,
 S/o Sukhram Singh,
 R/o Mohalla Chasri Satyanagar,
 District Bijnor.

APPLICANTS

(By Advocate Shri A.K. Sinha)

Versus

1. Union of India, through
 the Divisional Railway Manager,
 Northern Railway,
 Moradabad.

2. Sr. Divisional Personnel Officer,
 Northern Railway,
 Moradabad.

RESPONDENTS

(By Advocate Shri P. Mathur)

ORDER

By this O.A. two persons have filed the application claiming the following reliefs:

- i) Issue an order or direction to the respondents to produce Live Casual Labour Register pertaining to the Loco Seniority Unit or any other unit to which the applicants belong and inform as to whether they are maintaining the names of the applicants in register according to their seniority and if not, the respondents may be directed to do it now and interpolate the names of the applicants at appropriate place according to their seniority position;
- ii) Issue an order or direction to the respondents to screen and regularise the services of the applicants forthwith and if any person junior to the persons has already been screened and regularised as permanent staff then the applicants should be restored to the same position and emoluments with all consequential benefits what their juniors are availing of;

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- iii) Issue an order or direction to the respondents to fix the salary of the applicants vis-a-vis their juniors and pay the arrears of salary with market rate of interest thereon till the date of payment;
- iv) Pass such other or further order as it may deem fit and proper in the circumstances of the case; and
- v) Award cost as against the respondents.

2. It is submitted by the applicant No.1 had been engaged on 1.1.1975 and had worked upto 20.11.1984 and he had put in a total number of 514 days. Similarly, applicant No.2 had submitted that he had initially been engaged on 1.10.1975 and had worked for a total period of 392 days upto 20.11.1984. Thereafter, their services were disengaged. ~~theirs~~ Whenever they approached their offices they were informed that there was no sanction and whenever the sanction comes, they would be re-engaged. They have also submitted that they gave a number of representations on 4.8.1985, 16.9.1985, 3.8.1995, 30.8.1996, 9.9.1996 and 10.10.1996 (all marked as Annexure-A3 collectively).

3. Their grievance is that several juniors to the applicants have since been screened and their services also regularised while ignoring the claim of the applicants. They have also submitted that they did not have records to show how many juniors have been screened and made permanent but as per their knowledge, two persons viz., Shri Dharam Pal and Shri Ram Kishore are still working as Kanungo Clerk, Land Management Committee. They have also relied on PS No.8989, i.e., Railway Board's letter dated 25.4.1986 and have submitted that it was the responsibility of respondents to maintain the names of such casual labours on their Casual Labour Live Register and screen and regularise their services according to their seniority. However,

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since the respondents have not responded to any of their representations, they have no other option but to file the present O.A.

4. The respondents have opposed the O.A. They have submitted that this O.A. is barred by limitation and is liable to be dismissed on this very ground. They have submitted that as per the applicants' own averments, they had last worked with the respondents in the year 1984 (even though that is disputed by the respondents) While the O.A. has been filed only in the year 1997, when no fresh cause of action had arisen in favour of the applicants. Thus, they have submitted that this O.A. may be dismissed on the ground of limitation itself.

5. On merits, they have submitted that applicant No.1 ceased to work with effect from 30.4.1977 and applicant No.2 ceased to work with effect from 30.6.1977 after working for 270 days and 240 days respectively, in the Loco Shed, Moradabad. Therefore, there was no occasion for them to enter the names of the applicants in the Live Casual Labour Register. They have further explained that the work of Land sale under the control of Assistant Engineer, Northern Railway, Moradabad, for effective assistants to the Land Controlling Inspector, retired Patwari/Lekhpals are engaged on daily rates basis against the periodical sanction, although there was no sanctioned strength for such post nor there was any such cadre. The engagement of individuals thus, depends upon the periodical sanction and after expiry of the same, the same cease to work on daily rate basis as there is no channel of promotion nor any Recruitment Rules framed for such an appointment. The individuals,

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therefore, have no legal right to claim any benefit from such engagement. They have thus submitted that engagement to the post require to perform the work ~~as~~ in transactory and urgent nature only so long as the work exists as an temporary basis. Therefore, no person can claim an ~~as~~ automatic regularisation without following the procedure as laid down by law. They have stated specifically that the names of the applicants have not been borne in the Live Casual Labour Register and if they had any grievance they ought to have approached the authorities or the Court at that relevant time and at this belated stage, the applicants cannot have any right for regularisation. They have submitted that the re-engagement or regularisation of individual depends upon the position of the individual in the Live Casual Labour Register. They have further submitted that the names of two persons are based on altogether different footing and the applicants cannot claim any parity with them. It is further submitted by them that the applicants had not applied for getting their names entered into the Live Casual Labour Register before the cut off date and were not on roll as on 1.1.1981. As such, the relief as claimed by them cannot be granted to them.

6. The applicants in their rejoinder have submitted that their names were borne at Sl. Nos. 24 and 25 of the Live Casual Labour Register and even if their names were not there, ~~as~~ it was the responsibility of the respondents to put their names in the Live Casual Labour Register. In reply to the question of limitation, they have submitted that since this is a recurring cause of action, limitation would not apply in the present case and the cause of action will prolong till the applicants are screened and regularised vis-a-vis their juniors. They have also submitted that the

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Land sale Inspector is the Senior Inspector appointed through the R.R. Board and the post is permanent and any employee working there is a Railway servant. Therefore, it is wrong to say that ^{person working for} _{Land sale} is not a permanent employee of the department. The applicants have relied on the judgment of SHISH PAL SINGH given by Hon'ble High Court of Delhi, wherein it was held that in such cases, it is a recurring cause of action for the casual labours and limitation would not apply in such cases. On the other hand, the respondents have relied on S.S. RATHORE's judgment given by the Hon'ble Supreme Court and reported in AIR (1990) SC 10 and they have also relied on the Full Bench judgment given by C.A.T. in the case of MAHAVIR & ORS. Vs. UNION OF INDIA & ORS. reported in 2000(3) ATC 1, wherein the Full Bench has also held that limitation would apply even to the cases of casual labour. They have further relied on the Full Bench judgment given by Delhi High Court reported in 2000 (3) E.S.C. (Delhi) 576 wherein the law laid down in SHISH PAL SINGH's case was referred to the Full Bench and after considering all the judgments on the subject, the Hon'ble High Court of Delhi held that the prayer to put the names of the Casual Labour in Live Casual Labour Register is not continuous in nature and the law of limitation as prescribed under Section 21 of the A.T. Act would apply even to casual labour cases, ~~and~~ ^{and} the Full Bench has over-ruled the decision given by the Division Bench of Delhi High Court in SHISH PAL SINGH's case.

7. I have heard both the counsel and perused the pleadings as well.

8. Since the respondents have taken a preliminary objection to the maintainability of the O.A. itself on the ground of limitation, the applicants have to first cross



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that hurdle. ~~on~~ A perusal of the O.A. shows that the applicants have not filed any application for condonation of delay and admittedly even as per their own showing, they had last worked in the year 1984, which is disputed by the respondents ~~and~~ as they have stated that the applicants had worked only till 1977. Without going into the merits of this controversy, even if the applicants' averments are taken to be true for the sake of argument, the last working period by them was only in the year 1984. The instructions relied upon by the applicants are also dated 25.4.1986. Therefore, if the applicants had any grievance about their names not having been put in the Live Casual Labour Register, they ought to have approached the Court at that appropriate stage which was not done by them. The present O.A. was filed in the year 1997. There is no averment in the O.A. to show as to what fresh cause of action had arisen in their favour which entitled them to file the present O.A. in the year 1997. As per the applicants' averments made in para 4.3, the applicants had given their representations on 4.8.1985, 16.9.85, 3.8.95, 30.8.96, 9.9.96 and 10.10.1996, which itself shows that the cause of action for applicants had arisen in the year 1984 even as per the applicants' own showing and the first representation was made by them on 4.8.1985. If that be so, ~~xxxx~~ then the applicants should have filed the O.A. within 18 months from the said date. The law is well settled by the Hon'ble Supreme Court that repeated representations would not extend the period of limitation. Therefore, I am satisfied that the present O.A. is not maintainable as it is hit by limitation. The applicants' counsel had relied on SHISH PAL SINGH's judgment to show that this was a continuous cause of action, but the judgment given in SHISH PAL SINGH's case has already been

over-ruled by the Full Bench of the Delhi High Court itself. Therefore, the reliance placed on SHISH PAL SINGH's case would not help the applicants. Since the applicants have not even filed ~~any~~ application for condonation of delay, ~~as~~ I cannot even interfere in the matter on merits as the Hon'ble Supreme Court has held in the case of RAMESH CHAND SHARMA Vs. UDHAM SINGH - 2000 (2) AISLJ 89, the Tribunal cannot entertain petition barred by limitation and limitation cannot be waived unless it has been applied for. I am bound by the judgment given by the Hon'ble Supreme Court.

9. Accordingly, this O.A. being barred by limitation is dismissed on this ground itself with no order as to costs.


MEMBER (J)

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