

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,  
ALLAHABAD.

....

Original Application No. 1203 of 1998  
this the 26th day of May 2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER(S)

Arjun Singh, S/o Sri Parag Dutt, R/o Village Chak Rasulpur  
Tehsil & District Fatehpur.

Applicant.

By Advocate : Sri S. Dwivedi.

Versus.

1. Union of India through the General Manager, N.R.,  
Baroda House, New Delhi.
2. D.R.M., N.R., Allahabad.
3. The Inspector of Works, N.R., Fatehpur.

Respondents.

By Advocate : Sri G.P. Agrawal.

ORDER (ORAL)

By this O.A., applicant has sought the following  
relief(s):

"(a) That the respondents be directed to include  
the name of the applicant in the live casual lab-  
our Register of the department of railway.

(b) That the respondents be directed to re-engage/  
appoint/absorb the applicant against the vacancy  
of Group -D category in the department of railway.

(c) ----.

(d) ----."

2. It is submitted by the applicant that he was  
initially engaged in the year 1964 and was posted under  
IOW, N.R., Fatehpur, but in the casual labour card, his  
date of initial appointment had been *sheen B* as 6.3.1972. The  
casual labour card is annexed as Annexure A-1. It is  
submitted by the applicant that he was allowed to continue  
in service upto 5.7.1983 ~~and~~ thereafter he was not allowed  
to perform his duties neither he was suspended, nor he was  
given one's month notice as compensation in view of the  
notice. It is further submitted by the applicant that he

came to know on 7.5.97 that persons junior to him have been engaged/absorbed, whose names have been given at page 4 of the O.A. Thereafter, applicant gave a representation to the DRM, N.R., Allahabad, requesting them to absorb him against the vacancy of Group 'D' employee (Annexure A-3). The applicant has referred to the various provisions of Industrial Disputes Act and has submitted that the respondents should have followed the said provisions while dis-engaging the applicant. He has further submitted that the Railway Board sanctioned 56000 posts for absorption of casual workers in the railway and a circular in this regard had been issued on 11.12.96 (Annexure A-4), but in spite of it, the applicant was not absorbed. Therefore, he gave number of representations and finding no solution, he had to file the present O.A. seeking the relief as claimed above.

3. The respondents have opposed this O.A. on the ground that this O.A. is barred by limitation, therefore, the same is liable to be dismissed on this very ground. It is also submitted by the respondents that this Tribunal cannot look into the grievance with regard to the provisions of I.D. Act. Therefore, if he has any grievance with regard to the provisions of I.D. Act, his remedy lies before the Labour Court. On merits, they have submitted that the applicant had worked as daily rated casual labour under IOW, Fatehpur from time to time from 6.3.72 to 6.1.83 against work charge post only for 616 days in broken spells, therefore, he has not acquired status of temporary railway servant. They have further submitted that the name of the applicant is listed at sl. no. 14 on the live casual labour register of the respondent no. 3 i.e. IOW, Fatehpur and as per IREM, the seniority of casual labour is maintained unit-wise for the purpose of re-engagement and retrenchment and for the purpose of screening, the division of the particu-

lar department. As far as the names quoted by the applicant, the respondents have submitted that those persons did not pertain to Engineering department. Since the name of the applicant has been registered under IOW, Fatehpur, where he had worked in the Engineering department, he could be considered only when his number comes in the said unit, otherwise persons senior to him are still waiting for re-engagement. They have also submitted that none of the representations alleged to have been given by the applicant were received by the respondents in their office. They have, thus, submitted that there is no merit in the O.A., the same, may, therefore, be dismissed with costs.

4. The applicant in his Rejoinder has submitted that though the respondents have entered his name in the live casual labour register in the unit, but have not disclosed the serial number of the applicant in the live casual labour register maintained at Division level in their Counter reply. He has further mentioned in the Rejoinder that as many as 9 persons were engaged and regularised although they are junior to the applicant under the A.E., N.R., Fatehpur. He has also submitted that the selection for re-engagement/regularisation was conducted in the years 1989, 1992, 1994, 1995, 1996 and 1997, but in none of the selections, the applicant was called for, even though persons junior to him were re-engaged and regularised. Thus, according to him, the respondents have acted in an arbitrary and illegal manner.

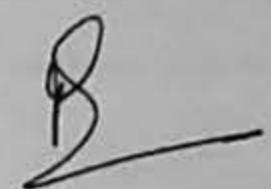
5. I have heard both the counsel and perused the pleadings as well.

6. The only relief sought by the applicant in this case is that the respondents may be directed to enter his name in the live casual labour register. Admittedly, the

applicant had last worked in the year 1983 and thereafter he was not permitted to do any ~~any~~ work. In normal course, this kind of O.A. is being dismissed on the ground of limitation, as law is well settled by now, that limitation applies even to the cases of casual labour and as per the latest judgment given by Full Bench of Delhi High Court even request to enter the name in the ~~live~~ casual labour register is barred by limitation which is one year from the date of cause of action and it was specifically held that such a request cannot be held to be a continuous cause of action. However, in this case, I cannot dismiss this case on the ground of limitation because the respondents have themselves stated that they have already entered the name of the applicant at sl. no. 14 under IOW, Fatehpur, Engineering department, where the applicant had worked for some time. The applicant has given certain names in the O.A. to suggest that he has been discriminated inasmuch as those persons have been called for screening and regularisation also, while the applicant was not called-for screening. As per applicant's own averments ~~that~~ those persons were regularised some time in the year 1989, 1993 and 1996, if that be so, then applicant ought to have approached the Court atleast at that time when the screening was being done for other persons, who are alleged to be junior to him. The applicant has not given any details as to how he is calling these persons junior to him as neither he has given any working days of these persons, nor the period when these persons were engaged and upto which period, nor the details under whom these persons had been working. Therefore, when the respondents have stated categorically that none of these persons were working in the same unit where the applicant was working namely IOW, Fatehpur, I cannot give any <sup>conclusive</sup> ~~any~~ decision in absence of any specific averments made by the applicant. The applicant's counsel has relied on Railway Board's circular dated 11.12.1996, but even this circular

cannot give any help to the applicant, as it was to apply only <sup>to R</sup> such of the casual labourers who were on roll as on 30.4.96. Admittedly, the applicant was not on roll on 30.4.96, therefore, this circular is not applicable to the applicant at all.

7. In view of the above discussions, I do not find any merit in the O.A. and the same is accordingly dismissed. NO costs.



MEMBER (J)

GIRISH/-