CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 24TH DAY OF MAY, 2002

Original Application No. 547 of 1993

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.C.S.CHADHA,MEMBER(A)

1. Dhani Prasad, S/o Sri mahadeo Prasad
R/o village Nehatti, Post Sarai Mumrej
District Allahabad.

2. Mahesh Singh, s/o Hanwat Singh
R/o village Babupur, Post
Phulpur, district Allahabad.

3. Bharat Lal, s/o Satai ram,
R/o village Batnahti, Post
Machchlishahar, district Jaunpur.

4. Gyan Prakash, S/o Sri Ram Das Maurya
R/o village Suwansa, Post
Suwansa, district Pratapgarh.

5. Prema Devi, D/o Ram Lakhan, R/o
Village Bahadaul Khurd, post
Surwani Misrapur, R.S.Gaura
Tehsil Patti, district
Pratapgarh.

6. Dinesh Singh, S/o Shri Hanwat Singh
R/o village Babupur, post Phulpur
District Allahabad.

1. Jai Prakash,S/o Moti Lal,
R/o village Kuttupur, Post Sultanpur
district Jaunpur.

8. Karam Chand, S/o Chhote Lal, R/o
Village Kuttupur, Post Sultanpur
district Jaunpur.

9. Girja Shanker, S/o Ram Jai
R/o village Kuttupur, post Sultanpur
District Jaunpur.

10. Khem Chand, S/o Mata Sharan
R/o village Kuttupur, post
Sultanpur, district Jaunpur.

... Applicants

(By Adv: Shri S.K.Om)

Versus

1. Union of India through
the Secretary, Railway Board, New Delhi.

2. General Manager, Northern Railway
Baroda House, New Delhi.

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3. Divisional Railway Manager,
Northern railway, Nawab Yusuf
Road, Allahabad.

4. Senior Divisional Commercial Manager,
Northern Railway, Divisional Railway
M,anager's soffice, Nawab Yusuf
Road, Allahabad.

... Respondents

(By Adv: ShriA.K.Gaur)

Along with OA No.458 of 2000

1. Mukesh Chand Bharti, son of
Late Shri Bagnath, resident of
Alinagar, P.S Alinagar, district Chandauli.

2. Rajesh Kumar, son of Sri Amrit Lal
Cillage Islampur(Mawai Khurd)
Police station Alinagar and post office
Mughalsarai, district Chandauli.

.. Applicants

(By Adv: Shri Satya Vijai)

Versus

1. Union of India through
General Manager, Northern
Railway, Baroda House,
New Delhi.

2. Chief Commercial Superintendent
Northern Railway, Baroda House,
Nerw Delhi.

3. Divisional Railway Manager,
Northern Railway, Nawab Yusuf Road,
Allahabad.

4. Senior Divisional Commerical Supdt..
D.R.M.Office, Nawab Yusuf Road, Allahabad.

.. Respondents

(By Adv: Shri A.K.Pandey)

Along with OA No. 162 of 2001

1. Manoj Kumar Gupta, son of
Shri Hari Lal Gupta, resident
of Alinagar, P.S.Alinagar,
P.O.Mughalsarai, district
Chandauli.

2. Raj Kumar Gupta, son of
Shrio Hari Lal Gupta, reisent of
Alinagar, P.S.Alinagar, P.O.Mughalsarai
district Chandauli.

.. Applicants

(By Adv: Shri Satya Vijai)

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Versus

1. Union of India through
General Manager, Northern Railway,
Baroda House, New Delhi.

2. Chief Commercial Supdt.
Northern Railway, Baroda House,
New Delhi.

3. Divisional Railway Manager,
Northern Railway, Nawab Yusuf
Road, Allahabad.

4. Senior Divisional Commercial Supdt.
D.R.M.Office, Nawab Yusuf Road,
Allahabad.

.. Respondents

(By Adv: Shri B.B.Paul)

Along with OA No. 23 of 1998

1. Arvind Kumar Srivastava,
son of Shri Mohan Lal Srivastava
a/a 33 years, resident of village
Kaithapur alias Lakhanipur,
post office Mughalsarai, district
Chandauli.

2. Ram Krishna Yadav, s/o of Sri Mukund
Yadav, R/o village Katesar,
Police station Ram nagar, district
Varanasi.

.. Applicants

(By Adv: ShriSatya Vijai)

Versus

1. Union of India, through Gefneral
Manager, Northern Railway,
Railway Board, Baroda House,
New Delhi.

2. Chief Personnel Officer,Northern
Railway, Baroda House,
New Delhi.

3. Divisional Railway Manager,
Northern Railway, Nawab Yusuf Road,
Allahabad.

4. Senior Divisional Commercial
Superintendent, Northern Railway
Nawab Yusuf Road, Allahabad.

.. Respondents

(By Adv: Shri B.B.Paul)

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O R D E R(Reserved)

JUSTICE R.R.K.TRIVEDI,V.C.

In all the aforesaid cases questions of fact and law are similar and they can be disposed of by a common order against which counsel for parties have no objection.

The applicants in the above cases have claimed that they were engaged as Voluntary Ticket Collectors during Ardh Kumbh Mela and they worked in this capacity from 12.1.1982 to 28.1.1982. On the basis of the aforesaid working applicants have prayed that the oral termination order by which they were disengaged may be quashed. It has also been prayed that the respondents may be directed to give benefit to the applicants, of Railway Board Circular dated 6.2.1990 by reinstating them and regularising their services as Voluntary Ticket Collectors with all consequential benefits.

Resisting the claim respondents have filed counter reply where in it has been stated that applications have been filed on the basis of false and made up story on the basis of the alleged working certificates. It has been stated that applicant's name does not exist in any available record. They have never worked as Mobile Ticket collectors or Voluntary ticket collectors during the alleged period or otherwise. The certificates are not based on any office record. They are fake and cannot be relied on.

On behalf of the applicants reliance has been placed heavily on the following judgments:

1) Sameer Kumar Mukherjee and Ors Vs. General Manager Eastern Railway and Ors, ATR 1986(2)C.A.T-7

2) Ms.Neera Mehta and Ors Vs. Union of India and Ors ATR 1989(1)PB Delhi- 380

3) Ms.Usha Kumari Anand and Ors Vs.Union of India & Ors ATR 1989(2)CAT- 37

4) Union of India & Ors Vs.Pradeep Kumar Srivastava and Ors, 1998 SCC(L&S) 1749

5) Un-reported judgment dated 25.10.1989 Dilip kumar and Ors Vs. Union of India & Ors, OA No.464/97 alongwith other cases decided by C.A.T Allahabad Bench, Allahabad.

We have considered the claim of the applicant in the light of the aforesaid judgments. However, we find that applicants are not entitled for any relief. Admittedly, applicants have allegedly worked only for a brief period of 16 days i.e. from 12.1.1982 to 28.1.1982. After 28.1.1982 they had not worked with Railways in any capacity. Against 16 days work they could not get even the temporary status on which basis they could claim that the services could not be terminated except by a notice. In case of 'Sameer Kumar Mukherjee(Supra) applicants of that case had worked for more than 365 days continuously. In case of Ms.Neera Mehta(Supra), applicants of that case had rendered service for the period ranging between 1½ years to 5 years. In case of 'Ms.Usha Kumari Anand(Supra) the period of duty put in majority of the cases was more than 120 days continuously. From the above facts it is clear that in almost all the cases the applicants had acquired temporary status by rendering service for 120 days or more and thus they had acquired temporary status and had become entitled for reinstatement. In the present case the applicants working is only 16 days they could not acquire temporary status and thus are not entitled for relief as granted in above cases. In case of 'Dilip Kumar and Ors OA.No.464/97 decided by this Tribunal on 25.10.99 Division Bench of this Tribunal considered this aspect. In para 16 the bench held as under:-

"The applicants had worked for a few days during Ardh Kumbh Mela in 1982 as Volunteers to assist ticket checking staff. They appear to have staked a claim after issuance of instructions of Railway board dated 6.2.1990 regarding Volunteer/Mobile booking clerks. They are thus not covered by instructions of Railway Board dated 6.2.1990 because they were engaged as Volunteers to assist ticket checking staff only for a period of 17 days....."

The claim of the applicants is also barred by limitation as shall be clear from the following:

OA No.458/01

The two applicants worked from 12.1.1982 to 28.1.1982. The OA was filed on 23.2.01 i.e. after 19 years. The claim is clearly time barred.

OA No.162/01

The applicants claim that they had worked from 12.1.1982 to 28.1.1982 as Voluntary Ticket Collectors. They filed this OA on 4.9.2000 i.e. after more than 18 years. The claim is clearly time barred.

OA No.23/98

In this case also applicants worked from 12.1.1982 to 28.1.1982. They filed this OA on 7.1.1998 i.e. after about 16 years. The claim is clearly time barred.

OA No.547/93

In this case the 10 applicants worked from 12.1.1982 to 28.1.1982. After 1982 they filed this OA on 7.4.1993 i.e after more than 11 years. The claim is clearly time barred.

Hon'ble Supreme court in case of 'Ratan Chandra Samanta and Ors Vs. Union of India and Ors, J.T.1993(3) S.C.-418 held that casual labourers were employed between 1964 to 1969 and retrenched between 1975-1979. Delay is of over 15 years in approaching the court. The Hon'ble

court held that:

> "delay depriving person in the remedy
> available in law has lost his remedy
> by lapse of time looses his right as well."

The present cases are squarely covered by it.

Besides the aforesaid, the applicants have not been able to prove that they actually worked between 12.1.1982 to 28.1.1982 by any cogent evidence. The challenge of the respondents in the present cases was that certificates are fake and are not based on any record. In the circumstances, the burden lay heavily on the applicants to prove by some cogent evidence that they had actually worked. The bare certificates in the circumstances particularly in view of the denial by the respondents and assertion that the certificates are fake, they could not be accepted, until proved in accordance with law. However, they have failed to prove this material fact as required in law. In the circumstances narrated above and judged from every angle, the applicants are not found entitled for any relief.

The OAs are accordingly dismissed having no merit. There will be however no order as to costs.

Sd/
Member(A)

Sd/
V.C.