

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 13th day of October 1997.

Original Application no. 1659 of 1992.

Hon'ble Mr. S. Dayal, Administrative Member.

Chandra Bhan, S/o Bhagirath, r/o Village Gazipur Kutub,
P.O. Mojampur Narain Distt-Bijnore.

... Applicant.

C/A D.P. Agarwal.

Versus

1. Union of India through Secretary to the Ministry of Railways, New Delhi.
2. P.W.I. Northern Railways, Dehradun.
3. Dn. Railway Manager, Moradabad, Division, Moradabad.

.... Respondents

C/R Shri D.C. Saxena.

ORDER (Oral)

Hon'ble Mr. S. Dayal, Member-A.

This is an application under section 19 of the Administrative Tribunals Act, 1985.

2. The applicant seeks the relief of re-instatement as ~~of~~ temporary employee with all benefits of seniority, pay and appowances, both past and future.

3. The facts as narrated by the applicant in the application are that the applicant held a valid service card for casual labour and was employed for 104 days from 14.09.85 to 14.12.85 and for 270 days from 14.01.96 to 14.10.96. He also claims previous period of employment in the year 1978, 1982, 1983 and 1984 for 113 working days. He claims that he was told in October 1986 that there was no work for him and that he would be given employment again when there was work. He claims that he approached respondent no. 2 for employment in December 1987, but was told that the employment of new hands had been stopped by the Railway Board, and he would to wait for some time more. The applicant approached the respondents nos. 2 and 3 again in December 1991 but his case was not considered. It is his claim that there are number of new projects taken up every year where a large number of casual labour is employed.

4. Arguments of Shri S. Chandra bried holder of Shri D.P. Agarwal, learned counsel for the applicant and Shri D.C. Saxena, learned counsel for the respondents have been heard.

5. The first issue raised by learned counsel for the respondents is that of limitation. Copy of casual labour card is produced by learned counsel for the applicant as annexure A-2 shows that he worked for 120 days in 1978 he again worked for about 140 days in the year 1982. As per casual labour card he seems to worked for 143 days in the year 1983 and 75 days in the year 1984. Casual labour card, however, shows total no. of days from 1982 to 1984 only as 367 days. The casual labour card again shows 104 days of work in the yer 1985 and 277 days of work in the year

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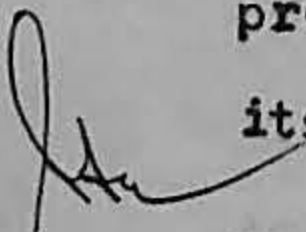
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1986. The applicant seems to claim 180 days of work in 1986. He has come for the relief for reinstatement as temporary employee in the year 1992 which is six years from the date so called oral termination of work. Delay has been explained in the Rejoinder Affidavit of the applicant as caused due to illitracy and fear of official wrath on those who make written applications and also futility of written application. The relief of reinstatement as temporary employee with benefit of seniority etc is clearly a relief which is belated and barred by limitation.

6. The respondents have mentioned that the records of P.W.I., Dehradun, shows that the applicant has almost worked continuously from 14.09.85 to 14.10.86. There is gap during month of June and July. But subsequent work of the applicant shows that the gap was due to non availability of work. Thus the claim of the applicant that he was engaged by the Railway and had put in number of month as of work on project finds support from the written reply of the respondents.

7. Learned counsel for the respondents has contested the claim of the applicant that he was orally asked not to come to work. He has taken plea that the applicant himself did not turn up for work. The plight of casual labour has been mentioned in the land mark judgment in Indra pal Yadav and others versus Union of India and others, 1985 SCC (L&S) 526 and it has been mentioned in the judgment that project casual labour who had put in no. of years in service were terminated with impunity under the specious plea that the project on which they were employed has been wound up after its completion and their service were no more needed. The



Apex Court gave dates given in the Circular of the Railway Board in which casual labour who were employed on project were to be treated as temporary on completion of 360 days of continuous employment and that casual labour of project, who have completed 180 days of continuous employment were to continue to be entitled to the benefits admissible till they became due to be treated as temporary employee. Apex Court brought within ambit of the circular of the Railway Board dated June, 1, 1984, these casual labour who had completed five years of service as on January, 1, 1981. This decision is relevant in this case as the cavalier manner in which the casual labour was treated before the judgment has been mentioned in it. It appears that implementation of the judgments had affected the continuance of those who were engaged subsequently. However, the Railway administration had formulated the scheme of entering the names of such casual labour on live register and consider them for grant of temporary status and regularisation of their turn.

8. Even if we accept the plea of the respondents that the applicant had not turned up for work after 15.10.86, there is nothing on record to show that the applicant was given any notice to come to work or else the employment would be treated as terminated w.e.f. the date mentioned in notice. However, the ground that a number of years have elapsed since the applicant's service was terminated would not preclude him from entitlement to be considered for inclusion in live register for casual labour and considered for engagement as and when those working in the year 1985-86 were considered. Since the respondents have admitted that the applicant was working in 1985-86 they should have included his name on the live register for casual labour.

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9. In the light of above findings the respondents are directed to consider the claim of the applicant for inclusion of name in the live register for casual labour. The respondents shall complete this exercise within a period of three months from the date of receipt information regarding period of work from the applicant and inform the applicant of the outcome, and, while conducting this exercise, the applicant shall be granted the opportunity to produce what ever evidence he has regarding having worked during various periods in the railways within a month of receiving a copy of this order.

10. There shall be no order as to costs.


Member-A

/pc/