

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH.

Dated: this the 17 day of July 1995.

ORIGINAL APPLICATION NO.1731/92.

Hon'ble Mr. S. Das Gupta, Member(A),  
Hon'ble Mr. T.L.Verma, Member(J).

Laloo Lal (Ex-casual labour, A.G.U.P.Allahabad),  
son of late Sri Bhai Lal, House No.4, Old Mumfordganj,  
Allahabad. . . . . Applicant.

By Advocate Sri M.A. Siddiqui.

Versus

1. Union of India, through the Comptroller & Auditor General of India, New Delhi.
2. The Principal Accountant General, Uttar Pradesh, Allahabad.

. . . . . Respondents.

By Advocate Sri N.B.Singh.

ORDER.

By Hon'ble Mr. S. Das Gupta, Member(A).

The reliefs prayed for in this original application filed under Section 19 of the Administrative Tribunal Act, 1985, are that a direction be issued to the respondents to include the name of the applicant in the panel of casual labours and to engage him as such in preference to fresh hands. It has been further prayed that the respondents be directed to consider the applicant for regularisation on a Group 'D' post if he has worked for 140 days during the period from 10.5.1983 to 30.8.1986.

2. The applicant has stated that he was engaged as casual labour by the respondents with effect from 3.5.1983 and he worked in that capacity till 30.8.1986 in various

Sections of the responding department. He has claimed to have worked for 205 days in 1983, 289 days in 1984, 270 days in 1985, and 225 days in 1986. It is alleged that on 31.8.1986 the applicant went to work in the office of the respondent no. 2 but he was told that there was no work for him and he would be intimated if need arose in future. It is stated that since then he has been visiting the office of the respondents daily for work but he was not given any work while fresh hands are being engaged. It is further alleged that in 1983 the applicant was called for interview for a Group 'D' post and he was orally informed that he was selected, but when the list was published, his name was missing. However, he was allowed to continue as a casual labour. The applicant has named several persons who were allegedly junior to him and have not completed 240 days in a year and yet have been regularised. It has been averred by the applicant that a Bench of this Tribunal had issued a direction to the respondents in OA No. 1112 of 1991 - Bajrangi Lal V. U.O.I. to the effect that a list of casual labour be maintained and they be engaged against future vacancies of casual labour and also be given preference for regularisation on Group 'D' posts. It is alleged that this direction has not been complied with by the respondents who are adopting a policy of fire and hire in an arbitrary manner and hence this application.

3. The respondents have filed a counter affidavit in which a preliminary objection has been taken on the ground of limitation, since the applicant ceased to work in 1986 whereas the present application has been filed in 1992. On the merit of the case it has been stated

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that the applicant actually worked for 164 days in 1983, 115 days in 1984, 71 days in 1985 and 63 days in 1986. He was, therefore, not eligible for being considered for regularisation on a Group 'D' Post, not having put in 240/206 days service as casual worker in each of the two consecutive years as required by the instructions contained in the Government of India, Ministry of Home Affairs, Department of Personnel and Administrative Reforms O.M. dated 26.10.1984. It has been further stated that his prayer for inclusion of his name in the list of casual labour cannot also be accepted as his case is barred by limitation. The respondents have alleged that the applicant had left work in the year 1986 on his own accord and thereafter applied for re-engagement in the office of the respondent no. 2 only on 29.10.1992 i.e. after a period of six years.

4. Regarding the allegation of the applicant that he was considered for Group 'D' Post in 1983, it is stated by the respondents that an interview was held in 1982 for appointment of fresh candidates sponsored by the Employment Exchange as well as for regularisation of eligible casual workers on Group 'D' Posts. While a number of candidates who were interviewed and found suitable were given appointment on Group 'D' Posts, the applicant was not found fit by the Interview Board and, therefore, he was not offered appointment.

5. The applicant has filed a rejoinder affidavit reiterating the <sup>contention</sup> contents made in the original application and denying the contrary averments in the counter affidavit.

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6. We have heard the learned counsels for both the parties and have carefully perused the pleadings. The applicant admittedly ceased to work in 1986. This application having been filed only on 7.12.1992 is clearly time-barred in so far as the prayer for regularisation on a Group D Post is concerned. Also it is clear from the averments of the respondents that in none of the years between 1983 and 1986 the applicant had worked for 206 days. Although the applicant has averred that he worked for 289 days in 1984, 270 days in 1985 and 225 days in 1986, he is not able to produce any documentary evidence to buttress his claim, which has been denied by the respondents. The applicant, therefore, has not been able to establish that he worked for 240 days in two consecutive years which would have created a right in his favour for being considered for regularisation on Group 'D' post.

7. As regards the applicant's prayer for being included in the casual labour list, the same is based on a decision of the Bench of this Tribunal in the case of Bajrangi Lal in OA No.1112/91. A copy of order dated 10.1.1992 passed in this O.A. has been placed at Annexure-A.3. We have seen therefrom that while directing the respondents to enter the name of the petitioner in that O.A. in the register of casual labour, which was being maintained, it was hoped that either the register was already being maintained and if not, the same should be maintained in order to avoid future ~~complaints of similar nature~~. We have been told by the learned counsel for both the parties that the respondents are maintaining such a

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register. While Bajrangi Lal casts obligation on the respondents to maintain a register of casual labour, it would also cast a reciprocal obligation on the part of the casual workers to represent and get their names entered in the register in case their names are omitted. There is nothing to show that the applicant made any representation prior to 29.10.1992. Even in the said application dated 29.10.1992, a copy of which has been placed at Annexure A-2, a specific request for inclusion of his name in the casual labour register has not been made. We are, however, of the view that the decision in the case of Bajrangi Lal having been rendered on 10.1.1992 and this application having been filed on 7.12.1992, the prayer for inclusion of the name in the casual labour register cannot be treated as time-barred. The respondents themselves have stated that the applicant did work for certain number of days in 1983, 1984, 1985 and 1986. It would, therefore, be just and proper also on the part of the respondents to enter his name in the casual labour register, which reportedly is being maintained by them, at an appropriate place, depending on the number of days the applicant worked. This would not militate against the decision said to have been rendered in the case of Vijai Singh v. Union of India in O.A. No. 656/93, cited by the respondents

8. The application is disposed of with a direction to the respondents to enter the name of the applicant in the casual labour register at an appropriate place on

-67 -

the basis of the number of days the applicant worked and  
to consider him for engagement on casual basis from time  
to time in his turn.

*J. Hema*  
MEMBER(J)

*W. R.*  
MEMBER(A)