

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 29th day of January, 1996
O.A. No.291/93

District : Haridwar

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. H.L.Verma, J.M.

Indresh Kumar Son of Shri Rodha

R/o Village & Post-Dawaki Kale Tahsil Rurakee,

District-Haridwar (U.P.).

(By Sri Jagdish Lal, Advocate)

. Applicant

Versus

1. Union of India through
General Manager
Northern Railway, Dehradun.
2. P.W.I. Northern Railway, Dehradun.
3. A.E. Northern Railway, Roorkee.
4. Divisional Railway Manager
Northern Railway, Moradabad.

(By Shri G.P. Agarwal, Advocate)

. Respondents

ORDER (O r a l)

By Hon'ble Mr. S. Das Gupta, A.M.

This O.A. has been filed under Section 19 of the Administrative Tribunals Act, 1985, merely seeking a direction to the respondent to consider and decide the representation dated 18-6-1992 stated to have been preferred by the applicant. It has been stated in the O.A. that the applicant has been working as a casual labour since 3-7-1978 and had continued working till 1989. ^{Whereafter} ~~However~~, he was not re-engaged. It is stated that the casual labour card in which his working till 14-8-1986 has been certified

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contains an endorsement by Asst. Engineer, Northern Railway, Roorkee to the effect that the period of working cannot be verified in the absence of the necessary records. It appears that this endorsement was recorded in response to a letter dated 29-8-1986 in which it was stated that the casual labour card appeared to be not genuine. Thereafter, it is stated, a representation dated 18-6-1992 (copy of which is Annexure-A-2) was preferred challenging the endorsement made by the Asst. Engineer.

2. The respondents have objected to the maintainability of this application in the counter reply filed by them. It has been stated that the application is time barred and the decision of the Hon'ble Supreme Court in the case of Rattan Chand Samanta has been relied upon in this regard. It has been further stated that the applicant had worked only in the month ending 14-9-1984 for a total period of 90 days under P.W.I. Dehradun and thereafter he again worked under P.W.I. Special Dehradun in the month ending 14-2-1986 and worked till 14-8-1986 with breaks. It has also been stated that the applicant left the job on his own in August 1986 and not in August 1989. His labour card is stated to be false and his working period is not traceable in records. It has been further stated that the applicant failed to give reference, such as, the name of the ^{M. K.} ~~Man~~ and place of working and other required references and the matter, therefore, was reported by the P.W.I. to AEN Roorkee, who made the impugned endorsement.

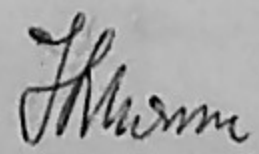
3. The applicant in his rejoinder affidavit has taken a plea that no opportunity of being heard was given to him before passing the impugned endorsement. He has reiterated this contention regarding the period he has worked as casual labour. It is clear from the copy of the labour card (Annexure-1) that the applicant last worked till 14-8-1986. There is no evidence to support the contention of the applicant

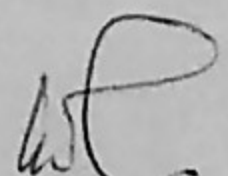
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that he worked also in 1989. The learned counsel for the applicant, however, stresses that the very fact that the impugned endorsement was made on 23-1-1989 would bear testimony to the assertion that the applicant was working also in 1989. We are unable to accept this contention in the absence of any documentary evidence in this regard and also in ^{the} face of specific denial on the part of the ^{respondents} ~~applicant~~ that he further worked till 1989. In any case, the impugned endorsement being made in March, 1989, the application which has been filed only on 9-3-1993 is time barred as stated by the respondents. It is not the case of the applicant that he is being borne on the live casual ^{laborer} register which ^{would} have given him continuing cause of action, as laid down in the case of Hukam Singh. The application being highly time barred, we, therefore, see no reason to enter into this matter at this stage.

4. While dismissing the application on the above ground, we, however, like to observe that in case a copy of the representation dated 18-6-1992 stated to have been preferred by the applicant is available with the respondents, it would be just and proper on the part of the respondents to consider the same and dispose ^{it} of in accordance with the rules. However, we refrain from issuing any direction in this regard as prayed for in the relief clause.

5. The application is disposed of with the above observation. There shall, however, be no order as to costs.


Member (J)


Member (A)

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