

8-13

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
A L L A H A B A D

Dated : Allahabad this the 22nd day of September 1995.

Original Application No. 669 of 1993

Hon. Mr. T. L. Verma, JM
CORAM :- Hon. Mr. S. Dayal AM

Gurbendra Singh,

s/o, Shri Kotwal Singh,

R/o. Shri Naga Ashram,

Railway Station Chauraha,

Mainpuri..... applicant.
(By Advocate Shri K.S.Saxena)

Versus

1. The Union of India (Through :General Manager,
Northern Rly, Baroda House,
New Delhi)
2. The Divisional Railway Manager,
Northern Railway,
Allahabad.
3. The Divisional Engineer/Assistant Engineer,
I/C. Tundla Sub-Division,
Northern Railway, Tundla.
4. The Inspector of Works,
Northern Railway,
Mainpuri. Respondents.

(By Advocate Sri Amit Sthalker/Sri D.C.Saxena).

ORDER
(BY Hon. Mr. T.L.Verma, Member-J)

R
This application under Section 19 of the
Administrative Tribunals Act, 1985 has been filed
for issuing a direction to the respondents for
entering the name of the applicant in Live Casual
Register of I.O.W./Mainpuri according to his

seniority and re-engage him as casual labour after conferring temporary status on him and thereafter regularise his services after scrutiny.

2. It is stated that the applicant was engaged as casual labour on 8.2.1979 under S.O.W./Mainpuri and claims to have worked as such for 286 days in different spells before being retrenched on 8.1.1981. According to the applicant, he acquired temporary status on completion of 120 days continuous work at the same unit. The basis of the claim of the applicant is copy of letter NO. GM(P)/NDLS No.220-E/190-XII-E IV dated 23.3.90 regarding maintenance of Casual Labour Register. The Railway Board had issued in 1987 laying down the guidelines regarding recruitment, retrenchment and employment of casual labours retrenched before 1981, if they satisfied the requirement mentioned therein. According to the instructions issued by the Railways, the cases of project casual labours who had worked as such before January, 1981 and who were discharged due to completion of work or for want of further work may be considered for the purposes of implementation of scheme contained in Ministry's letter dated June 1st, 1984 and June, 25th 1984, as modified in letter dated September, 11th 1986. As per the above instructions, Live Casual Registers are required to be maintained for each seniority unit, which for the open line casual labour is senior subordinate and for the project casual labour is the divisional basis and the project casual labour is to include both open line and project casual labour. For maintenance of this

10

casual labour Register, it was decided that Division should call for representation from various casual labour whose names have not been placed on the Live Casual Labour Register and the representations which are received on or before 31.3.1987 were to be considered after verification of valid documentary proofs and if found eligible, their names ~~hav~~ were to be included in Live Casual Labour Register. Thereafter this Live Casual Labour Register were required to be closed and no further names were to be added except those Casual Labours who are retrenched after 1.1.1981.

3. The respondents, while admitting that the applicant had worked for 280 days have opposed the claim of the applicant on the ground that the same is barred by limitation and also that he had not worked for 120 days continuously as envisaged under para 2001 of the Indian Railway Establishment Manual.

4. We have heard the learned counsels for the parties and perused the record. In view of the admitted position that the applicant had worked for 286 days from 8.2.1979 to 8.1.1981, with breaks, which appear to have been occasion for non-availability of productive work, he will be deemed to have acquired temporary status even though such status was not given to him by the respondents.

L

5. In view of the foregoing conclusion, the 2nd question that arises for our consideration is whether the claim of the applicant is barred by limitation.

6. The applicant is stated to have filed several representation for including his name in the Live Casual Register and ^{to} re-engage him but, copies thereof have not been filed to substantiate the said averment. The only copy of the representation filed is dated 4.3.1992. In absence of transible material we are not inclined to accept the contention of the applicant that he had submitted representation prior to 4.3.1992 also. The representation dated 4.3.1992 filed 12 years after the dis-engagement in our opinion will not extend the period of limitation. The learned counsel for the applicant has drawn our attention to letter dated 23.3.90 (Annexure-A-1) and has urged that the applicant shall be deemed to be borne on Live Casual Register. The directions contained in the letter do provide that all persons who retrenched after 1.1.1981 are to be borne in Live Casual Register till they are absorbed. The relief, that the respondents be directed to enter the name of the applicant in the Live Casual Register in this application, is itself the proof of the fact that the name of the applicant has not been entered in the Casual Labour Register is the instructions, already referred to above, issued in 1987 read with instructions contained in Annexure-A-1 in our opinion require that the Casual Labours who were dis-engaged for non-availability of work and whose

names have not been entered in the Life Casual Labour Register should make a right within reasonable time. Such representations were to be considered after verification of valid documentary proofs and if found legible their names were to be included in the Live Casual Labour Register. Since the applicant did not submit representation within the reasonable time for inclusion of his name in the Live Casual Labour Register and regularisation of his services we are of the view that the claim of the applicant is barred by limitation.

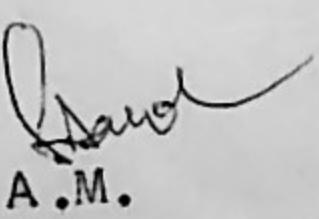
7. Although, it has been stated that Casual Labours junior to the applicant have been retrenched and regularised but details of such juniors who have been retrenched or re-engaged has not been given. These averments which are vague and lacking in detail also do not have further case of the applicant.

8. The right of the casual labour for re-engagement in the Railways has been recognised both by the Railways and the Courts. The applicant, therefore, also had a right for re-engagement in view of his past services, but, unfortunately he has not taken any step within time to enforce the scheme before Railways except sending representation on 4.3.1992, approximately 11 years after his disengagement.

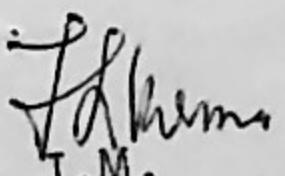
SK

-6-

9. In view of the discussions made above, we find that this application is barred by limitation and is accordingly dismissed. It will, however, be open to the respondents to consider whether the applicant is covered by scheme framed by Railways and enter his name in the Live Casual Register, for re-engagement as and when work is available and regularisation of his services, according to law. The parties shall bear their own costs.



A.M.



J.M.

VKP/-