

10

A1  
/

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH, ALLAHABAD

Dated : Allahabad this the 10th day of April, 1996.

CORAM : Hon'ble Mr. S. Das Gupta, Member-A  
Hon'ble Mr. T. L. Verma, Member-JORIGINAL APPLICATION NO. 1138 of 1993.

Paras Nath s/o. late Sri Bagu Ram,  
Resident of House No. 5A 19/56, Village Gurhupur,  
Post Office Sarnath, District Varanasi.  
employed in the office of Assistant Loco Foreman,  
N.E.Railway, Varanasi as Casual Labour, Khallasi.  
.....Applicant.

(THROUGH ADVOCATE SHRI N. N. LAHIRI)

Versus

1. Union of India through  
General Manager, N.E.Rly.,  
Gorakhpur.
  2. Divisional Railway Manager, N.E.Rly.,  
Varanasi Division, Varanasi.
- .....Respondents.

(THROUGH ADVOCATE SHRI A. K. SHUKLA)

O R D E R(Oral)

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

This application under Section 19 of the Administrative Tribunals Act, 1985 has been filed seeking direction to the respondents to recognise the applicant as Casual Labour and to recognise the status of the applicant as temporary Railway Servant on completion of 120 days continuous service. Further prayer is that the respondents be directed to hold the screening test with a view to bringing the applicant on to permanent Establishment of the Railways in group IV Post.

.....2/---

S.



-2-

2. The facts averred in the O. A. by the applicant are that he came into Railway service on 4.7.1976 as a Cinder Labour posted in the department of Coal/Ash handling and cinder packing in the office of Assistant Loco Foreman, N.E. Railway, Bhatni and worked from 4.7.1976 to 16.12.1977, On ~~being~~ <sup>having</sup> completed 120 days continuous service he should have been granted temporary status and the benefit of being given a permanent job in the Railways. The applicant's representation has been rejected by an order dated 25.9.1992 (Annexure-1), hence this application.

3. The respondents have filed a written statement in which it has been stated that the applicant was working under a Contractor hence he was not a Railway servant nor the question of granting him temporary status will arise in this case. However, he was engaged as Engine Cleaner (C.L.) with effect from 9.12.1977 to 16.12.1977 for only 7 days and thereafter he was never re-engaged. The applicant has filed a Rejoinder-Affidavit in which he has sought to controvert the averments in the written reply as regards the nature of his employment. He has also reaffirmed the averments made in the O.A. ~~Irrespective of whatever the status of the applicant, the fact remains~~

4. In the absence of the learned counsel for the respondents we heard the learned counsel for the applicant and carefully perused the records. Irrespective of whatever <sup>be</sup> the status of the applicant, the fact remains that his last engagement was upto 16.12.1977. Admittedly he was not re-engaged thereafter. There is no averment in the O.A. that his name is borne on the Live Casual Labour Register. In the written reply <sup>A/c</sup> there is no such averment. However, there is oblique reference ~~to~~ the fact that the name even if borne on the Live Casual

W.C.



12

A2  
3.

-3-

Labour Register is ~~submitted~~ <sup>deletes</sup> after 6 months. The case of the applicant is therefore totally stale and cannot be re-opened at this stage. ~~If the~~ <sup>learned counsel strongly</sup> ~~controversy~~ relied on the fact that the representation of the applicant has been turned down by order dated 25.9.1992, giving him a fresh cause of action and therefore, the application is not time-barred. We have noted that this letter has been issued rejecting the applicant's representation dated 7.4.1992. It is, therefore, clear that the applicant had submitted a representation 15 years after his last engagement. A reply to a delayed application certainly will not give fresh cause of action as has been repeatedly pointed out by the Hon'ble Supreme Court and other benches of the Tribunal. We see no merit in this application which in any case is highly time-barred. The same is therefore, dismissed. There shall be no order as to costs.

J. D. Verma

Member-J

W. R.

Member-A

Dt/- Allahabad April 10, 1996.

(Pandey)