

Reserved

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 10th day of November 2000.

Coram: Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Mr. S. Dayal, Member (A.)

Original Application No. 288 of 1994.

Dori Lal
son of Sri Ram Prasad,
r/o village Lodhahi,
Post Office Maharara,
Distt. Mathura.

. . . Applicant.

Counsel for the applicant: Sri Anand Kumar, Adv.

Versus

Union of India through:-

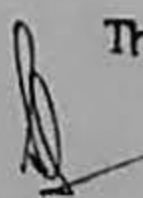
1. General Manager, Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Allahabad.
3. The Divisional Superintendent Engineer,
Northern Railway, Allahabad.
4. The Assistant Engineer (Special)
Northern Railway, Aligarh.

. . . Respondents.

Counsel for the Respondents: Sri Bharat Bhooshan, Adv. &
Sri G.P. Agarwal, Adv.

Order (Reserved)

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

 This application has been filed for a direction

to the respondents to re-engage/absorb the applicant in service giving all consequential benefits including seniority and back wages.

2. The case of the applicant is that he was ^{as a casual labour} initially engaged/on 14.6.82 and worked till 14.9.82 under P.W.I. (P.Q.R.S.), N. Rly., Tundla. He was thereafter engaged from 14.9.84 to 14.6.85. He claims to have done 339 days of work but states that his casual labour card has been taken by the respondents on the pretext of regularisation and is in their custody. He claims that he has completed temporary status after working for 120 days. He claims that he was discharged from service without reasonable opportunity of hearing, without any notice or retrenchment compensation. He claims that he approached the Permanent Way Inspector after discharge and was informed that his name has been registered in Casual Labour Live Register. He was assured that he would be called when sanction comes but he has not been re-engaged. He claims that applicants in O.A. No. 2275 of 1990 who were junior to the applicant have been granted relief of registration of their names in the Live Register of Casual Labour after examining their working days and be engaged according to their seniority. The applicant represented claiming the benefit of above judgment by way of similar treatment. He has not received any response.

3. The respondents in their counter reply

have denied that the applicant worked for 339 days but have admitted that he worked for 211 days in broken spells of 107, 14 and 90 days without completing 120 days continuously to earn temporary status. They have denied that his name was entered in Live Register or that he was given any assurance of re-engagement or regularisation. They have stated that the applicant left of his own accord and did not raise his claim till the filing of the O.A. They have denied the right of the applicant to get any relief on the basis of cases filed by others as he was not a party in those cases. They have denied that the applicant deposited his casual labour card and have doubted his identity.

4. The arguments of Sri Anand Kumar for the applicant and of Sri G.P. Agarwal for the respondents have been heard.

5. The applicant's claim for re-engagement and consequential relief has been contested by the respondents on the ground of limitation. The applicant's counsel claimed that other casual labourers were granted the relief in the past without accepting the ground of limitation in those cases. These arguments do not help the applicant as what is required is explanation of delay for directing the respondents to take him back in service with consequential benefits. The applicant's right to be engaged on availability of work of casual nature with the respondents will, however, not be

affected by limitation as cause of action arises every time such work is available unless the respondents show that the applicant was given opportunity at that time but failed to avail of it.

6. The respondents have mentioned that they did not give registration in Live Register for Casual Labour because the applicant did not claim it. This argument of the respondents is not valid because they know when the work of casual nature is available and they are expected to keep record of persons who worked in the past to offer them such work on the basis of their seniority. This is the law of the land applicable to employees of Government Departments who are covered under the definition of Workmen under Industrial Disputes Act, 1947. The responsibility to offer work to such workmen is squarely cast upon the employer. The employer cannot claim limitation in entering the names of such workers who worked in the past unless he shows that he had offered work to the worker in the past and the worker refused to accept it.

7. The respondents have doubted the identity of the applicant. They are free to obtain information regarding the place and precise period of engagement, the names of office in which they worked and names of their supervisors and co-workers to establish the identity of the person.

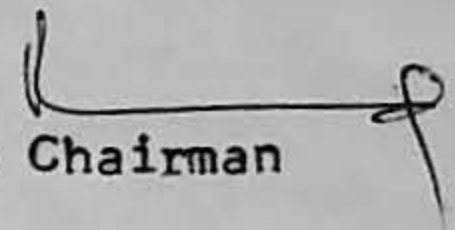
8. In the light of above findings, we consider

it appropriate to direct the respondents to enter the name of the applicant in the Live Register for Casual Labour after making enquiry as to identity if required and offer him work of casual nature in his turn and grant him further benefit of regularisation based on seniority based on number of days of work put in.

9. There shall be no order as to costs.



Member (A.)



Vice Chairman

Nafees.