

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Review Application No. 122 of 1995

In

Original Application No. 144 of 1995

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. S. DAS GUPTA, MEMBER (A)

Anil James aged about 39 years, S/o  
Shri Henry Mickle, R/o House No. 436,  
C.P. Mission Compound, Gwalior Road,  
Jhansi ..... Applicant

BY ADV: SHRI R.K. NIGAM

Versus

1. Union of India, through General  
Manager, Central Railway, Bombay V.T
2. D.R.M. Central Railway, Jhansi

..... Respondents

O R D E R

JUSTICE B.C. SAKSENA, V.C.

This review petition is directed against an order passed on 13.7.95 by us in the O.A. after considering the submissions made by the learned counsel for the applicant, the O.A. was decided on merits. In the review petition only one plea has been taken that the order passed by us in the O.A. deserves to be recalled in view of a decision of P.B. reported in 1993(24) ATC pg 747 Hukum Singh Vs. Union of India and Ors. The said decision was rendered by a Division Bench of the Principal Bench of the Tribunal. We have gone through the said decision. In para 5 an observation made by an earlier Division Bench in Amir Husain Vs. Union of India O.A. 1346/92 decided on 6.11.92 by the P.B. was noted.

The observation was;

" In our opinion, the process of engagement of casual labourers borne on the Live Casual Labour Register is a continuous one and non-engagement of such a casual worker would be in the nature of a continuing cause of action. "

There is a misconception about the doctrine of the continuous cause of action. If a casual labour's services were dispensed with notwithstanding the same if his name is borne on a Live Casual Labour Register and as and when re-engagement of casual labourers on the basis of their order of seniority in the Live Casual Labour Register is taken up would afford a fresh cause of action and he can seek his re-engagement if others lower in order of seniority are considered for re-engagement. The default /inaction on the part of the respondents of <sup>not</sup> re-engaging the applicant ~~concerned~~ <sup>for</sup> concerned affords a fresh cause of action notwithstanding that his services had been terminated a few years earlier. The termination order, however, cannot be ~~terminated~~ <sup>for</sup> permitted to be questioned because of bar of limitation but his claim for re-engagement can be considered, <sup>which</sup> on the basis of fresh cause of action, <sup>has</sup> been accrued within the period of limitation. In our considered opinion this <sup>is</sup> the true perspective of the matter. In the O.A it has not been indicated that the applicant's name was borne on the Live Casual Labour Register. It has been pleaded for the first time in the review application. When the O.A. was heard the plea taken ~~was~~ in respect to the order of termination and it was urged that since no notice have been given nor any disciplinary proceedings have been initiated the services could not have been terminated.

:: 3 ::

We have noted that the learned counsel for the applicant was unable to indicate any circular of the relevant rule in support of the allegation that the services of a monthly rated casual labour cannot be put to an end unless notice in this behalf has been given to him. That plea was therefore held to be untenable. There is no averment that the respondents have taken any steps or action for re-engagement of the casual labourers whose services have been terminated much less persons lower in order whose services have been terminated earlier and are borne on the Live Casual Labour Register and lower in order to the applicant in the Live Casual Labour Register. The review application does not disclose any grounds contemplated under order 47 Rule 1 C.P.C. It is accordingly dismissed.

  
MEMBER (A)

  
VICE CHAIRMAN

Dated: June 6th, 1996

Uv/