

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD

DATED : ALLD. ON THIS 2nd DAY OF SEPTEMBER, 1998

CORAM : HON'BLE SHRI S.K.AGRawal, MEMBER (J)

ORIGINAL APPLICATION NO. 404 OF 1995

1. Chhabi Lal S/o Sri Modi Singh, R/o Vill. Bajahi P.O. Gulhata Distt. Gorakhpur.
2. Mewa Singh S/o Sri Balli Singh R/o Vill.- Lal Karuan P.O. Gulhata, Distt. Gorakhpur.
3. Vishwanath Singh S/o Sri Rama Rakha Singh R/o Vill. Rampur Chakya P.O. Piparpati, Distt. Gorakhpur.

..... Applicants

C / A : Shri Anil Kumar, Advocate.

Versus

1. Union of India through the General Manager, Northern Eastern Railway, Gorakhpur.
2. The Chief Signal & Telecommunication Engineer, Northern Eastern Railway, Gorakhpur.

..... Respondents

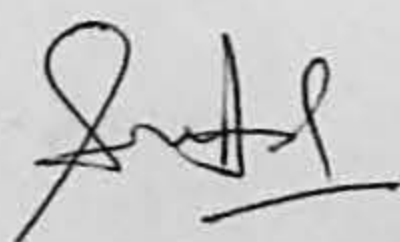
C / R : Shri A V Srivastava, Advocate.

O R D E R

(By Hon'ble Shri S.K.Agrawal, Member(J))

In this application filed under section 19 of the Administrative Tribunals Act, 1985 the applicants make a prayer that the respondents be directed -

- (i) to include the names of the applicants in the list of casual/substitute labourers for the purpose of screening and absorption ;
- (ii) to call the applicants for screening test of class IV employees according to their seniority of casual labourer.



(iii) to regularise the applicants as class IV employees after qualifying the screening test.

2. The facts of the case, as stated by the applicants, are that the applicants were appointed as casual labourers under the control of Ex- Divisional Signal Telecommunication Engineer, W/Estt, Gorakhpur and after six months applicants were given temporary status w.e.f. 01.07.1965 vide letter no.S.S.T./Works/E/Gorakhpur/No.150/1/2/Part IV dated 01.07.1965 but all of sudden on 15.01.1967 the applicants were stopped from signing the muster-roll and no termination order regarding termination of their services was issued. It is submitted that the action of the respondents is altogether illegal, arbitrary and against the relevant rules of Indian Railways Establishment Manual. The applicants made so many representations to the respondents but nothing was done so far. Applicants also sent a registered notice dated 29.01.1987 through their counsel which was served upon the respondents but with no effect. It is submitted that the applicants were already granted CPC scale (Temporary Status) and, therefore, termination of services of the applicants is altogether illegal without following the process of law. It is further submitted that due to wrong advice, the applicants filed a civil suit no.905 of 1987 before Munsif, Gorakhpur and the same was returned to the applicants for want of jurisdiction. Thereafter, the applicants gave the same to the counsel of the Hon'ble High Court of Allahabad for filing the same before the Tribunal but after an enquiry, it was found that the counsel did not file the same before the Tribunal due to office mistake and, therefore, they filed the present application before the Tribunal.

3. No counter was filed in this case. It is submitted by the learned lawyer for the respondents during the course of his arguments that the record was weeded of this case long back and there is no record available to verify the services of the applicants. During the course of the arguments, he has submitted that the present application is hopelessly barred by limitation.

4. I heard the learned lawyer for the applicants and learned lawyer for the respondents and perused the whole records.

5. On the perusal of the pleadings, it appears that the applicants were conferred temporary status w.e.f.01.07.1965 and they were discharged w.e.f.15.01.1967 due to curtailment of establishment, as it appears from annexure A-3

6. By this application, the applicants make a prayer to direct the respondents to include the names of the applicants in the Casual Labour Live Register and to issue further direction to the respondents to call upon the applicants for screening test of Class IV employees and to regularise the applicants as class IV employees.

7. From the pleadings of the applicants itself, it is abundantly clear that the applicants did not come for redressal of their grievances before they filed a civil suit in the Court of Munsif, Gorakhpur. The Administrative Tribunals Act came into force in the year 1985. The date of the alleged discharge of the applicants is 15.01.1967. The applicants before filing a civil suit before Munsif, Gorakhpur never agitated their grievances before a proper forum and after filing a suit before Munsif, Gorakhpur (Wrong jurisdiction), the applicants again went before a wrong forum and thereafter they came to this Tribunal only in the year 1995. In view of the explanation given by the applicants in the Original Application and in view of the provision of section 21 of the Administrative Tribunals Act, 1985, this application filed by the applicants appears to be hopelessly barred by limitation.

8. Learned lawyer for the applicant has referred (1989) 10 ATC page 538 Meshi Ram V/s Resident Engineer & another. I also perused the citation referred by the learned lawyer for the applicant and in view of the facts and circumstances, I am of the opinion that no help is available to the applicants by that citation.

[Handwritten signature]

9. It is settled law that casual labourer has no right to hold a post. He is neither a temporary Govt.servant nor a permanent Govt.servant. Provision contained under article 311 of Constitution of India does not apply to him as his tenure is precarious. His continuance is depend on the satisfaction of the employer. A temporary status conferred on him by the Scheme only confers him certain ~~rights~~ ^{rights}. A daily rated casual labourer does not ex-post facto ~~have~~ ^{have} a right of continuation. His right of continuation is subjected to the availability of the work and satisfactory performance of the work and conduct. The casual labourer can be regularised only after completing certain formalities i.e. after selection as per the scheme framed by the department. Merely long service as casual labourer cannot make him a regular hand. Disengagement of casual labourer from the service cannot be construed to be retrenchment under Industrial Dispute Act and regularisation of a casual labourer is subject to the vacancy available for the post. In Ghaziabad Development Authority & Ors. V/s Vikram Chaudhary & Ors. AIR 1995 S C Page 2325, it was held that in the event of termination of the service of a contingent employee engaged on daily wages, principle of last come first go should be followed.

10. In Central Welfare Board & Ors. V/s Mrs. Anjali Depali & Ors. JT 1996(8) SC page 1, it was held that while dispensing with the services of the persons against the casual vacancy, principle of last come first go should be followed.

11. In the instant case, this Original Application is hopelessly barred by limitation in view of the facts and circumstances mentioned in the O.A. itself and no case of the applicants is made out either for inclusion of the names of the applicants in casual labourer live register nor for regularisation/absorption of the applicants against the post.

12. Therefore, this O.A. is dismissed with no order as to costs.


MEMBER (J)