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CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 7th DAY OF JUNE, 1995

Original Application No. 519 of 1995

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

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

Dilip Kumar Srivastava aged about
37 years, s/o Shri Beni Prasad
Srivastava, r/o 391 Meerapur, Allahabad

.... Applicant

BY ADVOCATE SHRI A.K. BANERJEE

Versus

1. Union of India, through General
Manager, Northern Railway, New Delhi
2. Divisional Railway Manager,
Northern Railway, Allahabad
3. Senior Divisional Signal & Tele Comm.
Engineer, C/o the Divisional Railway
Manager, Northern Railway, Allahabad.
4. Signal Inspector, Northern Railway
Allahabad.
5. Signal Inspector, Northern Railway
Juhi, Kanpur

.... Respondents

O R D E R (Reserved)

JUSTICE B.C. SAKSENA, V.C.

We have heard the learned counsel for the applicant when the case came up for orders/admission. Through this OA, the applicant has challenged a letter dated 5.8.94 by which the representation made by the applicant for inclusion of his name in the Live Casual Labour Register has been rejected. In the impugned order the respondents quoted two references of the Railway Board's letters printed serial number 9191 and 9195. The representation has been rejected on the ground that the casual labours whose services were terminated prior to 1.1.81 and if they do not submit representations prior to 31.3.87 a documentary proof for having worked, the repre-

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sentations preferred after 31.3.87 would not be considered. Alongwith the OA copies of the aforesaid two circulars have been annexed as Annexure A-4 and A-5.

2. It is relevant to indicate that earlier the applicant approached the Tribunal through O.A 32/94 with a prayer that his name be put in the Live Casual Labour Register. The Division Bench by a decision dated 12.1.94 disposed off the OA with the direction that the respondents may consider the representation of the applicant and dispose of the case with a reasoned and speaking order within a period of three months.

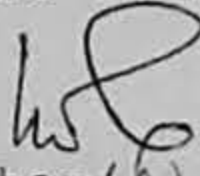
3. The learned counsel for the applicant submitted that the applicant had worked as casual labour on an Open Line from 20.9.76 to 31.3.77 and thereafter he was re-engaged to work for another 76 days w.e.f. October 4, 1982 to December 8, 1982. On the basis of this the learned counsel submitted that both the circular letters will not be applicable. As far as serial no. 9191 the learned counsel submitted that it would apply only to Project casual labours. This contention is palpably erroneous. Paragraph no.2 of the said circular letter dated 4.3.87 no doubt deals with Project casual labours but Paragraph no.3 deals with Open line casual labours who are discharged before 1.1.81 for want of work or completion of work for consideration for inclusion of their name in the Live Casual Labours Register. It has been indicated that for this purpose the instructions contained in the Ministry of Railway 's letter dated 2.3.87 will apply mutatis-mutandis. It has further been indicated that the last date of receipt of application completing the manner indicated in the said letter dated 31.3.87, it has also been indicated that the representation received after 31.3.87 will not be considered. The learned counsel for the

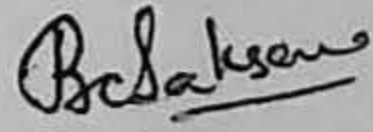
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applicant stated that since the applicant had worked for a period subsequent to ~~iod/1.1.81~~ 1.1.81 also this circular would not apply. The circular letter dated 2.3.87 is sl. no. 9191 copy of which is Annexure A-5 which relates to Project Casual labours and terms of their employment. These provisions have virtually been made applicable to Open Line Casual Labours also as would be evident from para 3 of Railway Board's letter dated 4.3.87 at sl. no. 9195. The purport of the two circulars is that placement of the name in the Live Casual Labour Register, or a continuous process was required to be continued only if a representation is received as documentary proof prior to 31.3.87. The date 1.1.81 as the term is because of the scheme approved by the Hon'ble Supreme Court in their judgment dated 23.2.87 in the leading case IndraPal Yadav Vs. Union of India and Ors. The learned counsel submits that under the said scheme it was the bounden duty of the Railway Administration to have placed the name of the applicant in the ^{Live}/casual Labour Register since he was discharged from service prior to 1.1.81 but he had worked for a subsequent period in the year 1982. Keeping in view the purpose of the aforesaid two letters we are not impressed with the distinction made viz the applicant had continued in service on re-engagement after 1.1.81. The fact remains that till the year 1993 he did not make any representation for inclusion of his name in the Live Casual Labour Register. In these circumstances, in fact the applicant ~~is~~ virtually slept over his rights, if any, to have his name included in the Live Casual Labour Register. After a lapse of about 11 years he seeks the remedy of inclusion of his name in the Live Casual Labour Register. The belated representation after a lapse of 11 years is not to be replied

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to by the ~~Authority~~ but as has been held by the Ernakulam Bench of the Tribunal in a case reported in (1995) 29 ATC 450 M.K. Balachandran Pillai Vs. CAT, New Delhi that a reply to a belated representation did not give rise to fresh limitation because silence on the part of respondents was susceptible to interpretation in different ways. The Supreme Court decision ~~approving~~ the scheme was rendered in Feb. 1987. If the applicant's name have not been included ~~and~~ in the Live Casual Labour Register and he was covered by the scheme approved by the Hon'ble Supreme court he should have approach^{ed} the Tribunal within one year thereof. In reply to a belated representation after almost 11 years does not afford ~~to~~ any fresh cause of action. The Ernakulam Bench has relied on Supreme Court decisions in support of the view taken by it. We are in respectful agreement with the said view. The petition is highly belated for the relief sought for and is accordingly dismissed summarily.


Member (A),


Vice Chairman

Dated..... June, 1995

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