

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD.

Original Application No.1587 of 1999.

Allahabad this the 13th day of September, 2004.

Hon'ble Mrs. Meera Chhibber, Member-J.
Hon'ble Mrs S.C. Chaube, Member-A.

Jawahar Lal
Son of Shri Man Bodh,
R/o Mohalla- Ratanganj,
Sai Baba Ki Gali, Mirzapur (UP)

.....Applicant.

(By Advocate : Sri B.N. Chaturvedi - Absent)

Versus.

1. The Union of India
through The Secretary,
Railway Department,
New Delhi.
2. D.R.M. Delhi Division,
Northern Railway,
New Delhi.
3. Senior Divisional Personal Officer/
Divisional Personal Officer, Delhi
Division, Northern Railway, New Delhi.
4. Chief Permanent way Inspector,
Northern Railway,
New Delhi.

.....Respondents.

(By Advocate : Sri P Mathur)

O R D E R

(By Hon'ble Mrs. Meera Chhibber, J.M)

By this O.A, the applicant has sought the
following relief(s) :

- "(a) Issue a writ, order or direction, directing
to the respondents to absorb, reinstate &
regularise the applicant on the available post/
incoming vacancies.
- (b) Issue any other suitable order or direction
which this Hon'ble Tribunal may deem fit &
proper in the circumstances of the case.
- (c) Award cost of this application to the applicant".



2. The brief facts, as alleged by the applicant are that the applicant was a retrenched employee (petrolman). He had rendered his services continuously with an artificial break of service for 689 days between the period from October, 1983 to March, 1986 as per the record available by the office to the applicant (Annexure A-2). He has further submitted that he came to know that his colleagues and juniors were reinstated and regularised, he gave a representation dated 15.6.1988 requesting therein for reinstatement and regularisation, but the same was not considered by the authorities; therefore, he gave representation to the Railway Minister ^{D.O.} ~~Q~~ /letter dated 19.7.1990 written by Asstt. Private Secretary, ^{of the Railway Minister} /by which D.R.M. was directed to consider the reinstatement of the applicant sympathetically, but in spite of that no action has been taken by the ^{Sr.} /Divisional personnel officer or the D.R.M. He has further submitted that persons junior to him have been regularised and absorbed, therefore, he has also a right to be regularised and absorbed..

3. The respondents, on the other hand, have submitted that the certificate annexed by the applicant as Annexure-1 alleged to have been issued by the Railway Authorities is not admitted as such certificate on blank paper cannot be relied upon document as the casual labour card are issued from the respective units for identification of the work of the individual in the organisation and are numbered. The possibility of impersonation cannot be ruled out as other mode of verification is the necessary paid vouchers from which the working of the individual can be verified, but in the instant case the same will also not be of any consequence as certain life span of five years has been prescribed for preservation of such vouchers and in this eventuality, the certificate annexed with the present petition cannot be said to be an authentic document on the basis of which a claim of an individual can be based. They have further submitted that the claim of the applicant for his appointment as ~~Patrolman~~ for patrolling duty for effective

assistance of the security of the track are based on hypothetical presumption as security of the Railway Tracks is to be done by Armed constables of the Railway Protection Force. There is no sanction strength nor there exists any such cadre. There is no ~~channel~~^{well} of promotion, nor any recruitment rules permit such appointment in the organisation. It is settled principle of law that the appointment of the daily wager is not an appointment to the post. Accordingly, daily wagers cannot be a conduit pipe for regular appointment as the same amounts to a back door entry and will breed the seeds of nepotism and corruption. They have further explained that the claim of the applicant for regularisation in the pay-scale of Rs.950-1500/- is infact a class III post, which can either be filled up through promotion or Railway Recruitment Board, therefore, applicant cannot be regularised against the said post at all. They have further submitted that the O.A. is barred by limitation as the cause of action, if any, arose in favour of the applicant, in the year 1985, whereas the present O.A. has been filed only on 16.12.1999. They have also relied upon the decision rendered in the case of Mahabir Singh Vs. U.O.I. & Ors in O.A. no. 706 of 1996 (P.B.) decided on 10.5.2000 wherein it has ^{been} held that limitation would apply even in the case of casual labour as well. They have thus, submitted that O.A. is absolutely misconceived, therefore, the same may be dismissed.


4- It is seen that Counter reply was filed by the respondents as back as on 6.7.2000, but neither the applicant bothered to file his Rejoinder to the said Counter Reply, nor is present in the Court today to press his O.A., which itself ^{was} sufficient for us to dismiss the O.A. in default of and for non-prosecution, but since this is a old matter and even otherwise, we find that this O.A. is totally barred by limitation, therefore, we are deciding this O.A. on merits as well. Under Section 21 of the A.T. Act, 1985, the period

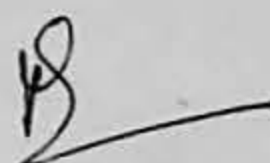
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of limitation is one year from the date of cause of action and incase a representation has been given by the person concerned and the same has not been decided, then 18 months from the date of cause of action. From the perusal of the facts as mentioned by the applicant himself, it is clear that applicant had worked only from october 1983 to March 1986 (even though it is denied by the respondents), but for the sake of arguments even if applicant stand taken is to be correct, then the cause of action arose in the year 1988 and in normal course, he should have approached the Tribunal within one year or latest 18 months after 1988, but no such effort was made by the applicant. on the contrary, he has stated that he came to know in the year 1988 that some junior persons were regularised, but he has neither given their names, nor any details have been given of those persons as to how they were said to be junior to the applicant, therefore, this argument is absolutely vague and cannot be relied-upon. Thereafter, applicant has stated that the letter was written by the APS from the Minister of Railways in the year 1990, but no action has been taken even on the said D.O. letter, but ^{even if} thereafter applicant has not taken any effort to approach the Court. The present O.A. has been filed only in the year 1999 i.e. after 13 years after his services were dis-engaged. It has been held by the Full Bench of the Tribunal in the case of Mahabir Singh that law of limitation applies even to casual labour and they are also bound by law of limitation. In the instant case, it is also seen that applicant has not filed any application for condonation of delay. It has been held by the Hon'ble Supreme Court in the case of ^{Ramesh Chandra Sharma vs. Udhav Singh Don (2) ATSC} ~~Rattan Chandra Samanta vs. U.O. 122/88~~ ^{S.C. 89} ~~U.O. 122/88~~ ^{RE} that the cases which are barred by limitation cannot be entertained by the Tribunal and delay cannot even be condoned, unless it has specifically been prayed for. Even otherwise, applicant has not given any particulars or names of the persons who are claimed to be junior to him and are alleged to have been regularised by the respondents. The respondents have infact stated that earlier the work was carried out by the RPF and Annexure-I, which has been

annexed by the applicant is not a proper document. Moreover, such old record is not even available with the respondents, therefore, it cannot be verified whether it is authentic document or not. We would agree with the respondents' counsel that it is only because of these things that it has been held by the Hon'ble Supreme Court that the old matters should not be re-opened by the Court. Infact in the case of Rattan Chandra Samanta, it has been held by the Hon'ble Supreme Court when casual labourers had approached the Hon'ble Supreme Court after 13 years that those who sleep over their right, lose the remedy as well.

5. In view of the above discussion coupled with the fact that the applicant has not ^{even} bothered to controvert the averments made by the respondents, we find that there is no merit in the O.A. The same is accordingly dismissed. No costs.


MEMBER (A)


MEMBER (J)

GIRISH/-