

open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

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Original Application No. 368 of 1999
this the 3rd day of December 2002.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

1. Layak Singh, s/o Sri Mihi Lal.
2. Shailesh Kumar, s/o Sri Mihi Lal.
3. Ramvir Singh, s/o Sri Devi Ram.
4. Amrish Kumar, s/o Sri Jasvir Singh.
5. Omendra Singh, s/o Sri Jitendra.
6. Bimlesh Kumar, s/o Sri Phoolan Singh.
7. Bholley Singh, s/o Sri Chotey Lal.
8. Daya Kishan, s/o Sri Saleti Singh.
9. Pramod Kumar, s/o Sri Hakim Singh.
10. Ramesh Chandra, s/o Sri Rustam Singh.
11. Ashok Kumar, s/o Sri Rajvir Singh.
12. Mahesh Chand s/o Sri Raksha Pal Singh.
13. Sanjay Kumar, s/o Sri Yashvir Singh.

Applicants.

By Advocate : Sri B.N. Singh.

Versus.

1. Union of India through General Manager, N.R., Baroda House, New Delhi.
2. Divisional Railway Manager, N.R., Allahabad.
3. Asstt. Engineer, N.R. Tundla, Firozabad.
4. Permanent Way Inspector, N.R., Mainpuri.

Respondents.

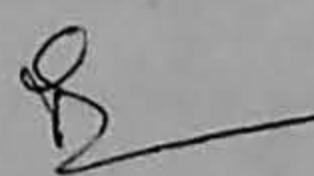
By Advocate: Sri G.P. Agrawal.

ORDER (ORAL)

This O.A. has been filed by thirteen applicants. It is submitted by the applicants' counsel that he is arguing the present case on behalf of the applicant nos. 3 to 13 as he has no instructions with regard to the applicant

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nos. 1 and 2. The applicants have claimed a direction to the respondents to reinstate them in service on the post of casual labour with all consequential benefits and privileges thereof including emoluments and arrears with effect from the date of dis-continuation of their service namely 9.12.96. The applicants' counsel has further submitted that the date of 9.12.96 has wrongly been written as the applicants had last worked upto 1985. It is submitted by the applicants' counsel that the applicant nos. 3 to 13 had worked in open line for more than 180 days. Accordingly, they should have been given temporary status and re-engaged as per circular issued by the respondents in the year 1987. It is submitted by the applicants that they had given a number of representations to the respondent no.2, but since no reply was given on same, they had no other alternative but to file the present O.A. ^B ~~Excerpts~~, they have submitted that the respondents did not give any notice in accordance with provisions of Section 6-N of U.P. Industrial Disputes Act 1947, nor one month's salary was given to them at the time of dispensing of their services. Accordingly, they have prayed for the relief(s) as mentioned above. The applicants' counsel has relied on a judgment given by Delhi High Court in the case of Sheesh Pal Singh wherein the High Court has held that the application moved by the casual labour for re-engagement cannot be rejected on the ground of limitation as the cause of action accrued to them subsequent and it is a continuous cause of action. He has also relied upon the judgment given by this Tribunal in O.A. no. 801/2000 on 11.8.2000 (page 31) whereby the respondents were directed to consider and decide the representation of the applicants within a stipulated period of time. He has further relied upon a decision given by Principal Bench in O.A. nos. 280/2000, 973/2000 and 975/2000 decided on 14.9.2001.



2. The respondents have opposed the O.A. and have taken a preliminary objection regarding maintainability of the O.A. They have submitted that the O.A. is hopelessly barred by limitation and the same is liable to be dismissed ^{very} on this/ground. They have submitted that even as per the applicants own averments they had worked from 1982 to 1984 and their services were dispensed with in the year 1985, therefore, if any, cause of action had ~~been~~ arisen in the year 1985 and they should have filed the O.A. within one year thereafter, whereas the present O.A. has been filed in the year 1999 when neither any fresh ^{cause of} ~~any~~ action has ~~been~~ arisen in their favour, nor there was any justification for them to file the present O.A. The counsel for the respondents has relied on a judgment given by the Hon'ble Supreme Court in the case of Ratan Chandra Samanta and also in the case of Ram pal Malik vs. State of Haryana. Thus, they have submitted that the O.A. is liable to be dismissed on the ground of limitation. They have also relied on 2002 (3) ESC in re. Jagdish Prasad vs. Union of India & ^{Shreya B} Others, the Full Bench of Delhi High Court to which the case of Sheesh pal Singh was referred to, has considered all the aspects of the matter and decided that limitation does apply even in the case of casual labourer and Section 21 of the Act provides a period of one year for filing an application before C.A.T. It is also held by the Full Bench that it cannot be said to be a continuous cause of action. They have further relied upon a judgment reported in 1987 SCC (L&S) 73 Dakshin Railways Employees Union, Trivandrum Division vs. General Manager, Southern Railway & Others wherein a cut off date was laid down as 31.3.1987 as the Hon'ble Supreme Court had directed the casual labourers to put their claim before administration upto 31.3.1987 which was to be decided by the respondents after considering the claim as made by the casual labourer. It is submitted by them that since the applicants did not

raise any claim before the authorities in the year 1987 as directed by the Hon'ble Supreme Court, the O.A. is devoid of any merit and is liable to be dismissed. They have also relied on AIR 1992 1414 in re Bhoop Singh vs. Union of India & Others wherein the Hon'ble Supreme Court has held that a judgment given in some other case cannot extend the period of limitation, nor it is to give a fresh cause of action to approach the court.

3. I have heard both the counsel and perused the pleadings as well.

4. Admittedly, as per the applicants own case they had worked latest upto 1984 and their services were dispensed with in the year 1985. If they had any grievance, ~~in as~~ ~~on the view~~ that their services were dispensed with illegally, arbitrarily or without following the due process of law, they should have challenged the same at the relevant point of time within one year thereafter. The applicants did not file any case in the year 1986 and have filed the present O.A. in the year 1999. The applicants' counsel has submitted that in the year 1987 the respondents have issued circular, according to which, the applicants should have been re-engaged and they had also given a number of representations, but no reply was given to them. The same is disputed by the respondents, but even if I accept the contention of the applicants for the sake of ~~at~~ arguments, still ~~on the~~ best it can be said that the cause of action had arisen in the year 1987 or 1988 and if the applicants had not been re-engaged by the respondents, they should have approached the court within one year thereafter, but nothing was done by the applicants. There is nothing on record to show that any fresh cause of action had arisen in favour of the applicants in the year 1999. Accordingly, the present O.A. is clearly barred by limitation. In Ratan Chand Samata's case(supra) the Hon'ble Supreme Court has held that the delay defeats the rights as well and those

who sleep over their rights are not entitled to any relief. The petitioners therein had approached the court after 14-15 years that too without any ~~substantive~~ documents. Therefore, the Hon'ble Supreme Court rejected the claim of those petitioners on the ground of inordinate delay and observed that no direction can be given to the respondents ~~to do a~~ roving enquiry. Similarly in the case of Bhoop Singh (supra) the Hon'ble Supreme Court has held that simply because some favourable judgment has been given to some ~~others~~ persons ~~concerned~~, it cannot be a fresh cause of action for other similarly situated persons to approach the court at that belated stage.

5. In view of the aforesaid discussions, the O.A. is dismissed as barred by limitation. parties shall bear their own costs.



MEMBER (J)

GIRISH/-