

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION No.478/1999

WEDNESDAY, THIS THE 5TH DAY OF FEBRUARY, 2003

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

1. Jai Prakash,
S/o Kishun Dev,
R/o Laro Donwar,
Post Kopaganj, District Mau.
2. Girja Shankar,
S/o Ram Chandra,
Village & Post Ratanpura Visukipar,
Jila Mau.
3. Subhash Chandra,
S/o Buddhu, ^{Cr}
Gram & Post Nasirabad Kalan,
District Mau.
4. Ram Narayan,
S/o Ram Jatan Ram,
R/o Ratanpura (Visukia),
Post Ratanpura, Mau.
(All casual labourers engaged
in Traffic Department). APPLICANTS

(By Advocate Shri V.K. Srivastava)

Versus

1. Union of India, through
its General Manager,
North Eastern Railway,
Gorakhpur.
2. Divisional Railway Manager,
North Eastern Railway,
Lahartara, Varanasi.
3. Station Superintendent,
North Eastern Railway,
Fefna/Chapara Junction. RESPONDENTS

(By Advocate Shri A.V. Srivastava)

ORDER

This O.A. has been filed by four applicants
claiming a direction to the respondents to consider the case
of applicants for screening/regularisation to the post of

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Class-IV and pay scale as number of juniors have been screened and regularised and also to regularise the services of the applicants on the basis of working days as per Circular issued by the respondents on different posts along with regular pay scale as are admissible under rule with all the benefits.

2. It is submitted by the applicants that applicant No.1, Shri Jai Prakash was initially engaged as a casual labour and given Sl.No.168 in the casual live register and was posted at Chapra Kacheri Station as Fatak Wala. He has worked from 1986 to 1992 and since he had completed more than 120 days, as such, he had acquired temporary status. Ofcourse, there were artificial breaks in-between. It was also submitted by him that in 1986, he was declared medically fit on 12.8.1986 for category A-2 (Annexure-2).

3. Applicant No.2 was initially engaged as Safaiwala and Paniwala on different dates in the year 1985 and had been permitted to continue till 1987. It is submitted by him that the Station Master had forwarded his application for regularisation/absorption against clear post on 12.3.1987 (Annexure-3).

4. Applicant No.3, Shri Subhash Chandra was initially engaged in the year 1985 and permitted to continue till 1987. He is also stated to have been medically examined and declared fit from 13.05.1987 and posted against the clear permanent post of Porter vide order dated 17.11.1987, where he was continued till 1989 (Annexure-4). It is also submitted by him that he was granted temporary status by the competent authority by order dated 29.11.1991 in which the applicant's

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name was placed at Sl.No.2. He was given temporary status with effect from 1.5.1990 (Annexure-6).

5. Applicant No.4, Shri Ram Narayan, was initially engaged as casual labour in the year 1982 at Ratanpura station and permitted to continue as Safaiwala till 1991. It is submitted by him that he had also continued and completed 120 days. Therefore, he acquired the status of temporary Railway servant. They have thus submitted that all the applicants are entitled for regularisation to the post and pay scale of Class-IV employee.

6. Their grievance is that respondents arranged screening for regularisation/absorption against clear permanent posts, but, did not consider the applicants' cases for regularisation while number of juniors of the applicants have been regularised to the post of Fatakwala and Safaiwala at different stations. It is submitted by all the applicants that they had preferred representations to the respondents for regularisation, but, since the respondents did not pass any orders, they had no other remedy except to approach the Tribunal.

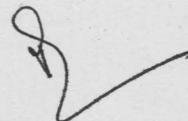
7. The respondents have opposed the O.A. and have submitted that the O.A. is barred by limitation. Therefore, it is liable to be dismissed on this very ground. They have further submitted that the applicants had not been engaged with the prior approval of competent authority in terms of Railway Board's circular dated 18.12.1980 as General Manager was only competent authority for granting approval. They have further explained that on investigation, the person

at Sl.No.168 is though named Shri Jai Prakash, but he is the son of Shri Krishnadeo Prasad of Village and PO Gauhariya via Puchrukhi, Distt. Siwan, whereas the applicant No.1's address is something else. Therefore, it is not the applicant No.1, whose name is entered at Sl.No.168 in the live casual labour register. They have further submitted that casual labourers are called for screening as per their seniority computed on the basis of number of working days maintained in the Live casual register and since none of the applicants' name was entered in the Casual Live register, they cannot be considered for regularisation. They have also submitted that temporary status is granted only for certain benefits, but, until and unless their names are in the Live Casual Register they cannot be regularised. They have also submitted that no such representation as mentioned by the applicants was received in the respondents' office and as far as the averment with regard to the juniors having been regularised, no names have been given by the applicants. Therefore, it is absolutely a vague averment to which no effective reply can be given. They have thus submitted that the O.A. is devoid of merit and the same may be dismissed with costs.

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

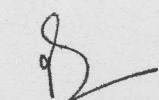
9. Admittedly, as per applicants' own showing, they had last worked in the year 1992, 1991 and 1989. The present O.A. has been filed in the year 1999. A perusal of the O.A. shows that there was no cause of action for the applicants to file this case in the year 1999. If they were dis-engaged

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in the year 1992, 1991 or 1989, as alleged by them, their cause of action had arisen at that particular stage and they ought to have approached the Court within one year from the date of cause of action. Since, the applicants did not approach the Court within one year from the date of cause of action, the present O.A. is barred by limitation. It is also held by the Full Bench of the Tribunal in Mahabir Vs. Union of India reported in 2000(3) ATJ 01 that the law of limitation applies even to casual labourers and it is also held by Hon'ble Supreme Court in the case of Ratan Chandra Samanta -(1993) 4 SCC (Sup.) 67, that law of limitation applies even to the casual labourers. In that case, the casual labourers who had approached the Court after a considerable delay, were not given any relief by the Hon'ble Supreme Court as it was held that those who sleep over their rights lose the remedy as well. Moreover, it has also been held by the Supreme Court in the case of Ramesh Chandra Sharma 2000(2) AISLJ SC 89, that in those cases which are barred by limitation, the Tribunals cannot even entertain unless an application for condonation of delay has been filed. In the instant case, it is seen that the applicants have not filed any application for condonation of delay. Therefore, this case is fully covered by the law laid down by Hon'ble Supreme Court in Ramesh Chandra Sharma's case. Therefore, I cannot even entertain this application.

10. The O.A. is accordingly dismissed with no order as to costs.



MEMBER (J)

psp.