

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 29th day of October, 2002.

Original Application No. 887 of 1998
with
Original Application No. 993 of 1999

Hon'ble Mrs. Meera Chhibber, Member- J.

Dharam Raj a/a 38 years S/o Sri Sukh Lal
R/o Vill. Jalapur Tagai, Police Station- Kokhraj
Tehsil- Sirathu, Distt. Allahabad.

.....Applicant in G.A 887/98

Counsel for the applicant :- Sri K.K. Mishra

V E R S U S

1. Union of India through the General Manager,
Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Allahabad.
3. Senior Divisional Operating Superintendent,
Northern Railway, Allahabad.

.....Respondents in O.A 887/98

Counsel for the respondents :- Sri G.P. Agrawal

Lalji S/o Sri Kashi Prasad R/o Vill. Medani Singh Ka Pura
Mauja and Post- Dharwara, Distt. Allahabad.

.....Applicant In O.A 993/99

Counsel for the applicant :- Sri Anand Kumar
Sri C.P. Gupta

V E R S U S

1. Union of India through General Manager, Northern
Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway,
Allahabad.
3. Permanent Way Inspector, Northern Railway,
Meja Road, Allahabad.

.....Respondents in O.A 993/99

Counsel for the respondents :- Sri Prashant Mathur

O R D E R (Oral)

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

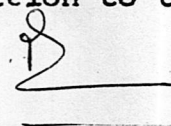
In both these O.As, the relief sought by the
applicants is to give direction to the respondents to

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reengage the applicants as Casual Labour (Safaiwala) and to give benefits of temporary railway employee to the applicants in accordance with paragraph 2501 of the Indian Railway Establishment Manual (I.R.E.M.). In O.A No. 993/99, the applicant has also sought a direction to the respondents to register the name of the applicant in Casual Labour Live Register (C.L.L.R), if not registered already.

2. The facts in O.A 887/98, as per the applicant, ^{he} ~~he~~ ^{is all that} was initially engaged as casual labour (Safaiwala) under the control of Inspector of Works, Kanpur from 01.01.1978 to 15.12.1978 with breaks. It is submitted by him that thereafter he was re-engaged on 01.01.1983 and worked with the respondents upto 31.01.1984 with broken period. It is the case of the applicant that ignoring the technical breaks and including the holidays the applicant had worked for more than 120 days as such he was entitled to be conferred with temporary status. They have also submitted that in para-2005 of IREM, the respondents ought to have given notice to the applicants before dis-engaging their services but no such notice was given to them, as such their termination was bad in law. They have also submitted that along with applicant several other candidates namely Phool Chand, Laxmi Shanker and Mewa Lal were engaged as casual labour and were junior to the applicant but they were not only given temporary status but were regularised as well on the basis of their castism. The applicant had further stated as per the circular issued by the railways themselves at various points of time, they are entitled to be granted temporary status as well as regularisation. The applicant had annexed his labour card to show that he had already worked for the period as stated by him in the O.A.

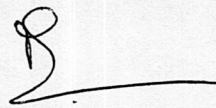
3. The respondents on the other hand have opposed the O.A. and have taken preliminary objection to the



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maintainability of the O.As itself. It is submitted by the counsel for the respondents that the O.As are highly barred by limitation. In case much as, according to the applicants own averments, the applicants had last worked with the respondents in the year 1984 whereas the O.As have been filed in the year 1998 and 1999 respectively i.e. after a period of 14 or 15 years. In support of their claim they have relied on number of judgments passed by the Hon'ble Supreme Court, Full Bench of the Tribunal and also full Bench of Delhi High Court. On merits they have also submitted that the applicants have not given full particulars of the persons who are alleged to be junior to the applicant and since their particulars have not been given, no definite reply can be given on the ^{B vague B} ~~fake~~ averments and in any case, even ~~if~~, for the sake of argument they have admitted, actually it is taken that any person junior to the applicant was ~~if~~ conferred temporary status or regularised, then applicants should have objected such discriminatory treatment at that relevant time. In the instant cases, the applicants have not bothered to show as to when the so-called juniors were given temporary status and when they were regularised nor any particulars of these three persons are given in the O.A. Moreover, the Casual Labour Card as annexed by the applicant is not as per law as it neither bears the serial number in O.A.993 of 1999 nor has other details or columns as are required under the IREM. According to the respondents the applicants are not entitled to any relief as the application is absolutely vague and devoid of merits.

4. The counsel for the applicants in both cases have produced the original cards for my perusal which are seen by me. I have heard both the counsels for the parties and perused the pleadings as well.



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5. At the outset, it may be said that applicant in O.A. No.887 of 1998 namely Dharam Raj has produced the Casual Labour Card which bears a serial number but shows that he has worked only for the period 152 days starting from 01.01.1978 to 15.11.1978. There is no entry in the said card ^{to show} that he had ⁱⁿ worked for the year 1984. Therefore, even as per his own evidence, the applicant last worked in the year 1978. As far as the applicant in O.A.993/99 is concerned namely Lal Ji, his original card does not bear any serial number.

However, the card shown to me shows that the applicant had worked from 06.11.76 to 05.08.77 ^{with} after breaks and he had been re-engaged on 14.03.84 and worked up to 05.07.84 again with breaks. Net results of these cards at best show that both the applicants had worked either in the year 1978 or up to the year 1984 but the present O.As have been filed as stated earlier in the year 1998 and 1999 respectively i.e. after more than 14 to 15 years. ^{later} None of the applicants has challenged his termination in the O.As even though they were dis-engaged as back as in 1984 as per their own averments.

6. Since the respondents have raised the preliminary objection to the maintainability of the O.A on the ground of limitation, it would be necessary for me to decide that question at the first instance. Though counsel for the applicants have relied on some of the judgments given by this Tribunal wherein directions were given by the Tribunal to the respondents to enter the name of the applicants in the C.L.L.R but those judgments, according to me, ^{do not hold the field} are not valid today as thereafter the matter was referred to the Full Bench of the Tribunal in the case of Mahabir and others Vs. U.O.I and others reported in A.T.J (2000) Vol.3 (1) in which the Full Bench ^{has occasion} had occasion to deal with following question namely ' whether the claim of a casual labourer who has worked prior to 1.1.1981 or

thereafter with the respondents i.e. Railway Administration has a continuous cause of action to approach the Tribunal at any time, well after the period of limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985, to get a direction to have his name placed on the Live Casual Labour Register; in other words, whether the provisions of the relevant. Railway Board circulars for placing his name in the LCL Register gives him a continuous cause of action.'

7. The full Bench after referring to various Judgments relied upon by the applicant as well as the respondents and the Judgements given by the Hon'ble Supreme Court, ^{the} answered/said issue as under:-

" Provisions of the relevant Railway Board's circular dated 25-4-1986 followed by the circular dated 28-8-1987 issued by General Manager, Northern Railway for placing the names of casual labour on the live casual labour register do not give rise to a continuous cause of action and hence the provisions of limitation contained in section 21 of the Administrative Tribunals Act, 1985 would apply."

8. They have also relied on the latest Judgment given by the Full Bench of Hon'ble Delhi High Court, reported in Educational Service Case Journal (2002) Vol. 3 (576) wherein once again after referring to the decision given by the Hon'ble Supreme Court in S.S. Rathore and Ratan Chand Samata⁸ case the Hon'ble High Court of Delhi held that cause of action for entering the name in LCLR is not a continuous cause of action. ^{they} ~~though~~ have ~~been~~ overruled ~~by~~ the decision given by Hon'ble High Court in Shish Pal Singh² case and further held that since the period of limitation as prescribed under section 21 of Administrative Tribunals Act



1985 is one year, The OAs filed for putting the name of Casual Labourers in LCLR beyond the period of one year are barred by limitation.

9. I have read both the Judgments and also bunch of Judgments decided by this Tribunal in O.A 1325 of 1993 and several other OAs where the Tribunal has rejected the said OAs holding them to be barred by limitation and I am of the considered ^{view} ^{that B} both these cases are fully covered by the Judgments as referred ^{to} above.

10. Since I am holding that both cases namely O.A NO. 887 of 1998 and 993 of 1999 are barred by limitation, there is no occasion for me to go into the merit of the cases. Even otherwise as stated above it is seen that the averments made by the applicants are absolutely vague as neither they have given the particulars of so called juniors nor ^{given} the particulars ^{the when B R alleged to be B} of year they were regularised. Therefore, ^{the} both cases are devoid of merits and accordingly dismissed with no order as to costs.

—Sd—
Member (J)

D.W.
14/11/02