

A CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1064 OF 1999

TUESDAY, THIS THE 18th DAY OF NOVEMBER, 2003

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

1. Lal Ram son of Bhaggu
2. Ram Babu son of Durga Prasad
3. Ram Pal son of Lal Man
4. Kunwar Lal son of Bhagoo

All residents of village Bhawani Purwa, Post
Gajner, District Kanpur Dehat.

.....Applicants

(By Advocate : Shri R. K. Rajan)

V E R S U S

1. Union of India through the General Manager,
Mumbai V.T.
2. The Divisional Railway Manager, Jhansi.
3. The Chief Signal Inspector Orai, Jalaun under the
Divisional Railway Manager, Jhansi.

.....Respondents

(By Advocate : Shri G.P. Agarwal)

O R D E R

By this O.A. applicant has sought the following reliefs:-

- (i) A direction may be issued to the respondents to re-engage the applicants in their service as juniors have been taken in service by the respondents.
- (ii) A direction may be issued to the respondents to verify the original service card, working of the applicants through register and pay sheets and give all privileges and benefits to the post of temporary status.

(iii) Any other direction to the respondents, which this Hon'ble Court may deem fit and proper in the interest of justice."

that

2. It is submitted by the applicants they were engaged under the Chief Signal Inspector, Orai and they have worked in different periods which is evident from Annexure-2. They have last worked up to 18.11.1989 as such, they have already completed more than 120 days work without any break. They have annexed the service cards alongwith the O.A. It is also submitted by the applicants that their names have been entered in the Live Casual Labour Register of the Chief Signal Inspector, Orai. Therefore, they have a right to be re-engaged but for reasons best known to the Respondents B applicant were not re-engaged. They have further submitted that since applicants had worked on open line for more than 120 days they were entitled for EMPLOYEE B status as such their services could not have been terminated without giving them one month notice in writing. In support of this contention counsel for the respondents has relied on section 21 of Disputes Act. They have also submitted that one O.A. No. 1550 of 1992 was filed by Prahald and Others Vs. Union of India and others which was decided on 10.12.1996 and since the therein B same was allowed, the applicants had been re-engaged in the year 1997. (Annexure A-6). When applicants came to know about it, they approached the authorities and since no reply was given to them, he sent a representation through registered post on 28.07.1998 to the D.R.M. but till date applicants have not been given any reply. They have thus, submitted that applicants are

being discriminated against as juniors have been working and are being re-engaged while ignoring applicants. Applicants have already submitted that since they are entitled to the benefits of the judgment dated 10.12.1996 it has given them a fresh cause of action as such this O.A. cannot be said to be barred by limitation. Counsel for the applicant has placed reliance on the judgment of Delhi High Court in the case of Shish Pal Singh and ors. Vs. Union of India and Ors. decided on 23.08.1999, wherein it was held that limitation would not apply in the case of Casual Labour as it is a continuous cause of action. He has also placed reliance on the judgment of this Tribunal dated 02.08.2001 given in O.A.No.1297 of 1999 whereby a direction was given to the competent authority to verify the claim made by the applicant within 3 months and to pass final orders thereon. He also relied on the judgment dated 31.10.2001 given in O.A.No.997/98 by Hon'ble Mr. Rafiquddin, Member 'J' whereby respondents were directed to consider the case of the applicant therein for re-engagement/absorption if it is found that any person junior to the applicant whose name was recorded in the casual labour register has been engaged/absorbed by the respondents.

3. On the basis of these judgments, counsel for the applicant submitted that since applicants were illiterate, limitation can not come in their way and the case needs to be decided on the basis of Judgment given by this Tribunal as referred to above.

4. Counsel for the respondents on the other hand has opposed the maintainability of the O.A. on the ground that

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this O.A. is grossly barred by time, therefore liable to be dismissed on this ground alone. He has submitted that as per applicant's own averments they had last worked up to November 1989 whereas the present O.A. was filed in July 1999. Therefore, this O.A. is liable to be dismissed on the ground of limitation itself. In support of his contention he has relied on AIR 1993 (SC) 32 in the case of Ratan Chand Samanta Vs. Union of India; 1999 FLR (81) 87 SC in the case of Scooters India another Vs. Vijai Ev. Eldered; AIR 1996 SC 2006 in the case of Union of India Vs. Nand Lal. He has also submitted that Judgment given in another case cannot give a fresh cause of action to the applicants which has already been held by Hon'ble Supreme Court in the case of Bhoop Singh Vs. Union of India reported in AIR 1992 (SC) 1414. He has also relied on a Full Bench decision given by this Tribunal in the case of Mahaveer Prasad as well as the Full Bench decision rendered by Hon'ble High Court of Delhi wherein the case of Shish Pal Singh has already been over ruled. On merits he has submitted that petition is absolutely vague and full of ambiguities and no case can be entertained on the basis of vague allegations made by the applicants. He has submitted that applicants have not given the particulars of any juniors in the Live Casual Labour Register who have been re-engaged or absorbed by the respondents on their own. In fact they have categorically denied that the names of the applicants were ever entered in the Live Casual Labour Register. They have also stated that no representation as alleged by the applicant was received by the respondents. Therefore, they have submitted that this O.A. is liable to be dismissed on merits as well.

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



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6. As per the averments made by the applicants in the O.A. itself, it is clear that they have last worked up to November 1989 and thereafter their services were dis-engaged. Applicants neither challenged their dis-engagement nor gave any representation at that relevant time, meaning thereby they accepted their dis-engagement. They have filed the present O.A. only in the year 1999 and the whole claim is based on the judgment given by this Tribunal in O.A. No.1550 of 1992 decided on 10th December 1996. Perusal of this Judgment shows that the facts as narrated by the applicants therein were admitted by the respondents in their counter reply, whereas in the instant case, the averments made by the applicants are not admitted by the respondents, therefore, if some judgment was given on the basis of admitted facts by the respondents, it cannot be used at as a precedent for all other persons who may have worked as Casual Labour with the respondents. It is also seen that the averments made by the applicants are absolutely vague as neither applicants have stated as to when they were initially engaged by whom and at what place. They have simply stated that the last engagement of the applicant was under the Chief Signal Inspector, Orai w.e.f. 19.06.1989 to 18.11.1989. In the absence of any categorical averment with regard to the working periods and place of work of the applicants, it is not even possible for the respondents to verify their working periods from the relevant places. The applicants have also not brought on record, any document to substantiate that their names were entered in the Live Casual Labour Register except making a bare statement, which has been denied by the respondents. In these circumstances, the judgments which have been relied upon by the applicants will not be of any assistance to them as the names of the applicants were not even entered in the

Casual Labour Live Register whereas in the judgment relied upon applicant ther ein had come out with a specific case that junior to the applicants in the Live Casual Labour Register were re-engaged while ignoring the applicants therein. In the instant case, applicants have not stated at what serial number and when their names were entered in the Live Casual Labour Register. Therefore, this averment made is absolutely vague and not being substantiated by any documents can not be accepted. Counsel for the applicant also submitted that since these casual labour were illiterates, they were not aware of the rules and regulations and point of limitation. Therefore, this case should be entertained on merits of the case. This question is no longer ~~res integra~~ as Hon'ble Supreme Court has already held in the case of Ratan Chand Samanta that even in the case of casual labour limitation applies and those who sleep over their rights, lose their right as well. It was held in the case of Ratan Chand Samanta that in the absence of any substantive pleadings or documents, courts cannot give direction to the authorities to hold a roving enquiry. Even otherwise, the Full Bench of this Tribunal has held in the case of Mahaveer Prasad that law of limitation will apply even in the case of Casual Labour, therefore, the present case is fully covered by the judgments as referred to above. As per as the case of Shish Pal is concerned that point was referred to the Full Bench and the Full Bench of Hon'ble High Court of Delhi has already over ruled Shish Pal's judgment, It was held by Full Bench that law of limitation will apply even to the Casual Labour and the period of limitation under the A.T. Act is one year from the date of cause of action. Therefore, this case cannot be entertained on merits at all. Admittedly applicants were

dis-engaged in the year 1989 and no fresh cause of action had arisen in their favour in the year 1989 giving them right to file the present O.A. in the Tribunal in 1999.

7. As already discussed above, the judgements given in the OAs relied upon by the applicant cannot be used as a precedent. Moreover, in the case of Bhoop Singh, Hon'ble Supreme Court has held that judgment given in the case of other person does not give a fresh cause of action to others to claim their rights on the basis of said judgments. Since this O.A. is filed after a period of over 10 years from the date of dis-engagement and the relief claimed is to give a direction to the respondents to re-engage them, this O.A. is clearly barred by limitation. Therefore, the same is dismissed being barred by limitation. No order as to costs.



Member (J)

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