

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1093 of 1999
this the 28th day of May, 2003

HON. MRS. MEERA CHHIBBER, MEMBER (J)

1. Nanhku s/o Ram Adhar
2. Tulsi s/o Deonath
3. Moahn s/o Sila
4. Jagnarain s/o Ram Baj
5. Chhotu s/o Gopi
6. Antu s/o Churphekhan.
7. Malkeet s/o Ram Nath.
8. Shiv Murat S/o Ram deo
9. Shiv puja S/o Sri Ram
10. Banarsi S/o panchu.
11. Narottam S/o Ram Nath.
12. Majid S/o Chhedi
13. Ram phal S/o Ram Lochan
14. Shiv Murat S/o Tengor
15. Govind S/o Kumar
16. Gaya S/o Hargen
17. Ramgati S/o Kirtan
18. Bahadur S/o Sikhhi
19. Ram Lochan S/o Ram Nandan
20. Chhabinath S/o Swaroop
21. Badri S/o Channu
22. Lalta S/o Sadan
23. Kanta S/o Sandan
24. Vakil S/o phakuli
25. Nighore S/o Chhabilal
26. Damodar S/o Baijnath
27. Natwar S/o Bhikky
28. Bahru S/o Khedan
29. Lalta S/o Mangli
30. Subedar S/o Bhogi

All C/o Ram Jiwan
R/o Nareepur, P.O.
Borila Dt. Chandauli
(Varanasi).

.....Applicants

(By Advocate : Sri Rakesh Verma)
versus

1. Union of India through the General Manager, E. Railway, Calcutta.
2. D.R.M., E. Railway, Mugalsarai, Varanasi.
3. Senior DEN-II E. Railway, Mugalsarai, Varanasi.

Respondents.

By Advocate : Sri K.P. Singh.

O R D E R (ORAL)

This O.A. has been filed by as many as 30 applicants who have claimed a direction to the respondents to absorb them on regular basis against class IVth posts with all consequential benefits.

2. It is submitted by the applicants that they had worked as casual labour under PWI, Karmanasa, Mugalsarai, Division before 1.1.1981. They had worked from July'73 to October'80 as a casual labour and since they had completed more than 120 days service, they are entitled for screening for regular absorption vide Railway Board's letter dated 2.12.77. It is further submitted by them that dormant list was prepared on 14.2.92 wherein applicants are placed at different serial numbers as stated in para 6 of the O.A. The grievance of the applicants in this case is that the respondents adopted pick and choose policy and without any notification conducted screening and absorption was made on regular basis to 233 casual labourers from time to time and most of these 233 casual labourers were junior to the applicants. Being aggrieved, they made repeated representations, but no heed was paid to them, therefore, they have no other option, but to file the present O.A.

2. The respondents have opposed this O.A. and have taken a preliminary objection to the maintainability of the O.A. itself by stating that this O.A. is hopelessly barred by

limitation as held by Full Bench of the Tribunal as well as judgments given by Hon'ble Supreme Court as well as Hon'ble High Court of Delhi. On merits, they have submitted that dormant list was prepared as per the judgment of Hon'ble Supreme Court on the basis of working days and since the applicants had not worked continuously for 120 days, the question of screening them did not arise. However, it is admitted that they are to be engaged as and when required and needed by the administration as per their turn. They have further submitted that the letter dated 3.12.77 would not apply in the present case as none of the applicants had worked continuously for 120 days. They have further submitted that wide circulation was made before calling the necessary documents regarding working as casual labour and proof thereof and those casual labourers came and submitted their papers were checked by Welfare Inspector, two representatives of recognised union and representative of Engineering Branch and thereafter the names of casual labourers were entered in the dormant list. As far as regularisation of some of the casual labourers as Safaiwala Gangman, Khalasi and Chaukidar is concerned, it is stated that the options were called for Safaiwala and Hot Weather staff from the casual labourers, many of them did not opt for Safaiwala and Hot Weather staff therefore, those opted were screened and taken as per vacancy. They have, thus, submitted that the contention of the applicants that the respondents have adopted the method of pick and choose is absolutely wrong and not tenable in law. As far as circular of 1996 is concerned, they have stated that only such casual labourers were to be regularised, who were on the roll of Railways on 30.4.96. Since none of these applicants were on the roll of railways on 30.4.96 the present O.A. is not at all sustainable in law. They have also submitted that none of the representations as stated to have been given by the applicants was filed before the respondents. They have referred to number of judgments, which

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are as follows :

- (i) AIR 1992 SC 1414.
- (ii) AIR 1998 SC 32.
- (iii) AIR 1993 SC 2276.
- (iv) FLR 1999 Vol.81 87.
- (v) ATC 1997 Vol.36 35.


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

5. As per applicants' own averments that they had worked under PWI, Karmanasa, Mugalsarai Division from July'73 to October'80, but no specific period has been given by them as to for which period each individuals had worked, therefore, it does not show that they had worked continuously for 120 days. The respondents have categorically denied by stating that none of the applicants had worked continuously for 120 days. The grievance of the applicants in this case is that persons junior to them have been regularised, while they have been ignored, but even the date has not been mentioned as to when those persons were regularised and no justification has also been given and if juniors were regularised then why the applicants did not make any representation at that relevant time and he he could not approach the court at that point of time, whereas the present O.A. has been filed on 8.6.99. As per applicants' own averments that they had last worked in October'80 and had approached this Tribunal in the year 1999, that means 19 years after they were dis-engaged. Law is well settled by now that limitation applies even in the cases of casual labour. In the case of Rattan Chand Samanta, the petitioner therein had approached the Hon'ble Supreme Court 15 years after his dis-engagement. The relief was not granted to the petitioner therein as the Hon'ble Supreme Court held that those sleep over their rights, loose remedy as well. Even otherwise, in the case of Mahabir Prasad, decided by Full Bench of the Tribunal in which it was held that limitation applies to the cases of casual labour.



as well. The applicants have not shown to us as to what cause of action arose in the year 1999 which forced them to file the present O.A., therefore, this O.A. is definitely barred by limitation. The applicants have not filed any application for condonation of delay. Once-again the Hon'ble Supreme Court in the case of Ramesh Chand Sharma, has held that if the case is barred by limitation, the Tribunal cannot even entertain the same unless the applicant seeks condonation of delay. Therefore, this case is fully covered by the judgments as mentioned above, as such it is liable to be dismissed. It is relevant to observe that the respondents have themselves stated in their Counter reply that the applicants would be considered as and when the need arises as per turn in the dormant list as per the existing rule at that time. I am sure respondents would consider applicants at relevant time as per their own statement.

6. In view of the above discussions, the O.A. is dismissed with no order as to costs.



MEMBER (J)

GIRISH/-