

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 1457 OF 2000

FRIDAY, THIS THE 30th DAY OF MAY, 2003

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

Gyan Prakash Yadav,
aged about 36 years,
s/o Shri Indrasen Yadav,
r/o Village-Jasopur, Post-Bhadida,
Thana - Mohammadabad Gohana,
District - Mau.

.....Applicant

(By Advocate : Shri Rakesh Verma)

V E R S U S

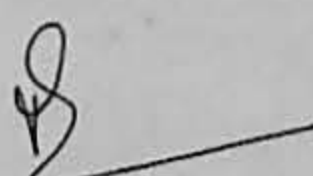
1. Union of India through the
General Manager,
North Eastern Railway,
Gorakhpur.
2. The Divisional Railway Manager,
North Eastern Railway,
Varanasi Division,
Varanasi.
3. The Station Superintendent,
North Eastern Railway,
Azamgarh.

.....Respondents

(By Advocate : Shri K.P. Singh)

O R D E R

By this O.A. applicant has sought the direction to the respondent No.2 to re-engage the petitioner as Casual Labour from the date when his junior^{was} re-engaged and to regularise him against Group 'D' post on availability of vacancy on the basis of seniority position based on number of days worked.



// 2 //

2. It is submitted by the applicant that he worked as Casual Waterman in Summer Season from 18.07.1986 to 06.08.1986 and was re-engaged w.e.f. 19.05.1987 to 31.05.1987 and from 01.06.1987 to 30.06.1987 and again from 01.07.1987 to 31.07.87 and from 01.08.1987 to 31.08.1987, total work 405 days, under the control of the Station Master, North Eastern Railway, Khorasan Road. Thereafter he was not engaged. It is submitted by the applicant that since he had worked for so long with the respondents, he had attained the status of temporary Railway Servant. On completion of 120 days as per Para 2006 of Railway Establishment Manual Volume II. He has also submitted that his name exists in the Casual Labour Live Register as has been told to him by the Station Superintendent, North Eastern Railway, Azamgarh. Therefore, he is entitled to be regularised. Applicant has also submitted that one Shri Kailash Chandra who had completed 110 days with respondent No.3 as Casual Waterman and whose name exists in the Casual Labour Live Register below ~~the~~ the applicant, has been re-engaged on 10.09.2000 while applicant has been ignored, therefore, he is being discriminated against. He has also relied on Judgment given by this Tribunal on 21.08.2000 in O.A. No.1193/96 (Annexure A-III) and has submitted that the same direction ^{be} given in his case as well.

3. Respondents have opposed this O.A. and have taken a preliminary objection to the maintainability of the O.A. itself on the ground that this O.A. is highly time barred.

As per order



~~As~~ According to applicant's own averment, he last worked in the department in the year 1987 whereas this O.A. has been filed on 23.11.2000. Applicant has also not annexed any application for condonation of delay. Therefore, as per the judgment given by Hon'ble Supreme Court in Ramesh Chandra Sharma Vs. Udham Singh Kamal and others, Tribunal cannot even entertain this petition and this may, therefore be dismissed on the ground of limitation.

4. On merits they have submitted that applicant is an unauthorised substitute. He has never worked after 1987 and no junior to the applicant has been re-engaged. They have also submitted that the name of the applicant has not been entered in the Live Casual Labour Register as he was not an authorised substitute. They have submitted that the Casual employee can only be engaged after obtaining the ~~personal~~ ^{prior} approval of General Manager and this authorisation ~~has not been~~ ^{has not been} delegated to lower authority and since he ~~was~~ not authorised substitute, therefore, he is not entitled to any relief. They have further submitted that the waterman ~~was~~ ^{were} engaged purely on temporary basis as daily rated casual labour for the sepcific period of summer season and never continuously. Therefore, their services ~~are~~ ^{are} for specific work and ~~will~~ come to an end automatically as mentioned in the engagement letter itself. However, after 1991 Railway Board has issued a letter dated 03.02.1992 whereby engagement of seasonal Hot Weather Waterman was totally discontinued with immediate effect (Annexure 3 and 4 of the CA).

8


They have specifically stated that after 1987 applicant had never worked, therefore, he is not entitled for any relief as claimed by him. As far as Shri Kailash Chandra is concerned, they have specifically stated that there is no such person and neither his name is entered in the Live Casual Labour Register. As far as judgment is concerned, respondents have stated that the facts and circumstances of the Original Application ~~are~~ not same as in the case of present applicant. They have thus, submitted that this O.A. is liable to be dismissed. Counsel for the respondents has relied on two judgments given by this Tribunal on 17.05.2002 in O.A. No.1272/01 and on 05.05.2003 given in O.A. No.539/01 wherein in similar circumstances taking into consideration, the Railway Board's ^{letter} ~~also~~ issued a ~~circular~~ on 1992, this Tribunal has already held that once policy decision has been taken by the respondents not to re-engage any waterman as substitute by them on station to provide water to the passengers, no direction can be given by this Tribunal to re-engage the said waterman.

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

6. It is seen that as per applicant's own averment, he had worked up to 1987. Though he has stated that thereafter he also worked but there is no such evidence on record. Therefore, his last working has to be taken as 1987. The present O.A. has been filed only in the year 2000. Therefore, this is definitely barred by limitation. Full Bench of this Tribunal has already

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held in the case of Mahaveer Prasad and others Versus Union of India and others that law of limitation applied to the cases of Casual Labour as well. Even otherwise, Delhi High Court Full Bench has also held that even the request to enter the name of Casual Labour in the Casual Labour Live Register is also covered by limitation and it ~~would~~ ^{cannot} be said to be a continuous cause of action. Period of limitation laid in the A. T. Act is one year from the date of cause of action. Applicant ~~was~~ ^{is} not able to show us any fresh cause of action that might have ~~reason~~ ^{arisen} in his favour to file the present O.A. He has stated that one Shri Kailash Chandra has been re-engaged in the year 2000 but respondents have categorically stated that there is no such person whose name has been entered in the Casual Labour Register. They have also stated that even the applicant's name has not been entered into Casual Labour Register. Therefore, when applicant's name himself is not entered in the Casual Labour Register, how ^{is junior to him} he can say that any person registered in the said register had been re-engaged. Since this matter is barred by limitation and applicant has not even filed any application for condonation of delay, this matter would be fully covered by the Judgment given by Hon'ble Supreme Court in the case of R.C. Sharma. Accordingly, we cannot even entertain this petition on merits. The O.A. is therefore, dismissed with no order as to costs.



 Member (J)