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(OPEN COURT)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

HON'BLE MR. JUSTICE A.K. YOG, MEMBER (J).

Original Application Number. 170 OF 2002.

ALLAHABAD this the 24th day of *September, 2008.*

Suresh Lal Srivastava, S/o Basudeo Lal Srivastava, R/o M.M. 91, Surya Vihar Colony,
P.O.- Gorakhnath, Distt. Gorakhpur.

.....Applicant.

VERSUS

1. Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. The Chief Personnel Office, N.E. Railway, Gorakhpur.
3. The Controller of Stores, N.E. Railway, Gorakhpur.
4. The Manager, Printing and Stationary, N.E. Railway, Gorakhpur.

.....Respondents

Advocate for the applicant: Sri R.N. Sinha

Advocate for the Respondents : Sri Anil Kumar

ORDER

It appears that the applicant was engaged as casual labour from time to time under order dated 11.10.1986 and subsequent order passed thereafter. The casual engagement of the applicant were dispensed with aggrieved he filed representation before the competent authority. According to the applicant, his request for continuing as casual labour and consequent there upon regularization have not been considered by the respondents' authorities. Hence he approached this Tribunal by filing O.A No. 501/96, which was finally disposed of vide order dated 03.07.2001 with direction to respondent No. 2 to consider and decide the representation of the applicant by a reasoned order within three months. By means of order dated 08.10.2001 (Annexure A- 1 to the O.A). representation

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of the applicant (available with the department) was considered and decided. According to the said order, the applicant was not available between 1987 and 1994.

2. Respondents have filed counter reply in the present O.A. In paragraph 8 of the Counter Reply, it is stated that applicant did not come forward to seek casual engagement during 1987-1994. Vide paragraph 13 of the Counter Reply, the respondents have taken plea of O.A having highly time barred. The respondents have also filed Supplementary Counter Reply. Learned counsel for the respondents further refers paragraph 3 of Supplementary Counter Reply, which reads:-

"3. That it is humbly submitted that applicant has filed the present O.A for regularization of his services on the ground that person junior to him has been already appointed vide order dated 15.10.87, regarding same it is humbly submitted that as per applicant, he had lastly worked upto 15.1.87 and seven persons junior to applicant has been appointed after screening on 15.10.87 and applicant was not called in the said screening, in view of the above facts as admitted by the applicant, it is humbly submitted that the applicant has got cause of action on 15.01.87, when he was stopped to work as temporary casual labour and further on 15.10.87, when the person junior to him was screened, but the applicant was kept mum for his valuable rights till 1994 and never raised any objection before 1995, in other words he has never made any representation before 1995 for his alleged right as claimed by him in the earlier O.A and the present O.A, as such in view of various judgments (as laid down in the case of Jagdish Prasad and various cases), present O.A are highly time barred and liable to be dismissed on this ground alone."

3. At the out set, it may be stated that Misc. Application seeking condonation of delay and taking pleadings on record, pending on date deemed to be allowed as there is no serious objection from the other side.

4. Learned counsel for the applicant argued that a baled statement on record that the applicant was not available for being engaged as casual labour during 1987 to 1994 cannot be accepted as gospel truth if 'specific provisions' dealing with engagement of

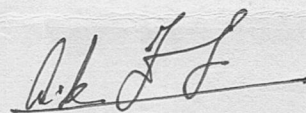
(2)

casual labourers are not followed, particularly in view of the decision in the case of Mahabir and Ors. Vs. U.O.I and Ors. Reported in 2000 ATJ (3) page 1. There is serious dispute, namely whether the applicant voluntarily absented / failed to make himself available for being engaged as casual labour or otherwise he was arbitrarily deprived for being engaged as casual labour by the respondents.

5. It would be appropriate in fitness of things that the applicant is required to file fresh representation giving full details and reference of relevant rules / citations relied upon by him in this context so that concerned competent authority may pass a reasoned / speaking order on this aspect, needless to mention that, in case the applicant was arbitrarily deprived of being engaged as casual labour during 1987-1994 without following stipulated procedure contemplated under relevant rules.

6. In view of the above this O.A is allowed by moulding relief to the extent that the applicant may file comprehensive para-wise representation before the Chief Personnel Officer, N.E. Railway, Gorakhpur (respondent No. 2) within three weeks from today alongwith certified copy of this order as well as O.A with all annexure/s. If such representation is filed, as contemplated above, within stipulated period, Chief Personnel Officer, N.E. Railway, Gorakhpur (respondent No. 2) shall decide the same by a reasoned / speaking order meeting all contentions raised by the applicant in his representation, within two months in accordance with law exercising unfettered discretion. Decision taken shall be communicated to the applicant by registered post.

7. With the above observation, the O.A is disposed of finally with no order as to costs.



MEMBER-J.

/Anand/