

**Reserved**

**CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH,  
ALLAHABAD**

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**Original Application No. 585 of 2003**

wednesday this the 28<sup>th</sup> day of May, 2008

**Hon'ble Mr. K.S. Menon, Member (A)**

Khushi Mohammad aged about 42 years, Son of Lal Khan Resident of Mohalla Nai Sarain, Bada Darwaja, and District Badauni.

**By Advocate Sri T.S. Pandey**

**Applicant**

**Versus**

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, North Eastern Railway, Izzatnagar Division, Bareilly
3. Senior Divisional Personnel Officer, North Eastern Railway, Izzatnagar Division, Bareilly.
4. Senior Divisional Engineer, North Eastern Railway, Izzatnagar, Bareilly.

**By Advocate Sri K.P. Singh**

**Respondents**

**ORDER**

**By K.S. Menon, Member (A)**

This O.A. has been filed with the prayer to direct the respondents to register the name of the applicant in the Live Casual Labour Register, grant temporary status and thereafter re-engage the applicant against any permanent vacancy/post after screening in terms of Railway Board Circular on the subject.

2. The facts of the case giving rise to this O.A. are that the applicant was engaged on 16.10.1982 as Casual Labour (Welder) by the Senior Divisional Engineer, N.E. Railway, Izzatnagar, Bareilly-respondent No. 4 and a casual labour card was issued in his favour. As per the applicant, after completing 666 days he was disengaged from service on 11.10.1988. Thereafter the applicant was not engaged and he was pursuing the matter regarding his re-engagement in the respondents' department. On 17.03.2002 the applicant moved



a representation, requesting the respondents to register his name in the Live Casual Labour Register, grant him temporary status and re-engage him after screening. It is stated in the O.A. that the applicant was discriminated as respondents engaged and regularised one Sri Satrugan Kumar Sharma, who had worked only 258 days as Casual Labour and was junior to the applicant. The applicant has also submitted that the Railway Board has issued a Circular dated 21.10.1980, laying down the procedure for registering the name of Casual Labour in the Live Casual Labour Register and also to provide temporary status to those who have completed 120 days period of service. It is also provided in the Circular that those who have completed 500 working days are to be screened for appointment against permanent vacancy. By the Circulars dated 01.07.1991 and 23.10.1997 the Railway Board has also provided for maintaining the seniority of casual labourers on the basis of number of day's work. It is submitted that not providing him a job is violative of different Railway Board circulars as well as Article 14 of the Constitution of India.

3. On notice, the respondents have filed the Counter Affidavit, taking the preliminary objection that the present O.A. is not within the limitation prescribed under Section 21 of the Administrative Tribunals Act, 1985 as the applicant has filed this O.A. on 14.05.2003 more than fifteen years after he stopped working under the respondents (11.10.1988). The respondents have submitted that the applicant had worked during the aforesaid period for 551 days only and that too in spells. It is further submitted by the respondents that the name of the applicant has been entered in the Live Casual Labour register. They contend that the applicant was not disengaged on 11.10.1988 as made out in Para 5 (b) of the O.A. He had actually left the job and never approached the Administration for a further job. It is also submitted by the respondents that Sri Satrugan Kumar Sharma had worked as casual labour from 01.02.1976 to 31.12.1992 but not in the Unit where the applicant had worked. He was successful in the screening test and was regularised. The case of the applicant is entirely different hence no comparison can be drawn. The respondents have pleaded that for appointment of a casual labour after 01.01.1981, approval of General Manager is required and all the action taken by the respondents are in conformity with the rules and regulations. They have, therefore, urged that the O.A. be dismissed being devoid of merits.


4. In the Rejoinder Affidavit, the applicant has reiterated all the facts mentioned in the Original Application.

5. Heard the counsel for the parties and perused the pleadings available on record.

6. From the facts on record it is seen that the applicant was initially engaged as casual labour on 16.10.1982 and worked in intermittent spells for 666 days under respondent No. 2 and 4 and was disengaged on 10.10.1988. Respondents have refuted this claim and contend that the applicant worked only for 551 days and that too intermittently and he was never disengaged but left on his own will and never approached the administration for further work, except now through the present O.A. that too after more than 14 years. The respondents have sought dismissal of the O.A. on grounds of limitation alone.

7. Admittedly, the applicant worked under the respondents up to 11.10.1988 and has filed the instant O.A. on 14.05.2003 i.e. after more than 14 years. This O.A. is therefore not within the limitation as prescribed under Section 21 of the Administrative Tribunals Act, 1985. The applicant in Para 3 of the O.A. has tried to justify the limitation aspect by stating that the subject matter of the O.A. being continuous cause of action, limitation clause is not applicable in this case in view of law laid down by Division Bench of the Delhi High Court in the case of Shish Pal Singh and ors. Vs. Union of India and others reported in (2000) 1 ATJ page 153, which reads as under: -

*"The petitioner had acquired the temporary status on account of his continuous officiation. He had worked for more than 120 days. The respondent formulated a scheme of regularisation for such like employees. As per that scheme, all casual workers who worked after 1.1.1981 were to be kept on the "live register" indefinitely. In 1997-98, juniors to the petitioner were engaged but he was left out. It is then he realized that his name had not been entered in the "live register" and, therefore, not given any engagement. The cause of action accrued to him in 1997-98, even otherwise the cause of action is a continuous one. Hence his original petition was not barred by time."*



This Judgment is not in consonance with the Judgment in Mahabir and others Vs Union of India and others 1997-2001 Kalra's ATFBJ 99, wherein it was held that "*Railway Board Circulars dated 25.04.1981 and 28.08.1987 provide placement of names of casual labourers on the live casual labour register do not give a continuous cause of action. Hence provisions of section 21 of the A.T. Act would be applicable*".

8. The applicant has also attempted to buttress his arguments by stating that he filed several representations during the said intervening period and the last representation was sent on 17.03.2002. The applicant has not been able to substantiate his contention as he has neither annexed copies of the said representations with the O.A. which he claims to have filed before the respondents nor has he indicated the various dates on which these representations were filed except the one dated 17.03.2002. The respondents vehemently deny receiving any of the representations including the last one dated 17.03.2002. This stand of the applicant is however unacceptable as in the case of S.S. Rathore Vs. State of Madhya Pradesh, AIR 1990 SC 10, a Bench of 7 Judges of the Supreme Court inter alia held as under: -

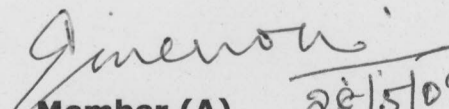
*"We are of the view that the cause of action shall be taken to arise not from the date of the original adverse order but on the date when the order of the higher authority where a statutory remedy is provided entertaining the appeal or representation is made and where no such order is made, though the remedy has been availed of, a six months period from the date of preferring of the appeal or making of the representation shall be taken to be the date when cause of action shall be taken to have first arisen. **We, however, make it clear that this principle may not be applicable when the remedy availed of has not been provided by law. Repeated unsuccessful representations not provided by law are not governed by this principle.**"*

9. The applicant has relied upon the Judgments in Shish Pal Singh and others (supra) and Radha Raman Samanta Vs. Bank of India and others [2004 (15) AIC 486 {S.C.}] in support of his averments. The facts and circumstances of both these cases are different from the facts and circumstances of the instant case and cannot therefore be applied to this case.

10. The Supreme Court in the case of Bhoop Singh Vs. Union of India and others 1992 21 ATC 675 has held that inordinate delay or latches by itself is a ground to refuse the claim of the applicant, irrespective of the merits of the claim. If a person is entitled for relief but he chooses to remain silent for a long period, he gives rise to reasonable belief in the mind of others that he is not interested in claiming the reliefs.

11. As mentioned by the respondents, the applicant worked only upto 11.10.1988 and in the intervening period he says he has filed representations, copies of which he has neither annexed with the O.A. nor is there any proof of his representation dated 17.03.2002 having been received in the office of the respondents. He has now filed the O.A. after a lapse of over 14 years. The applicant has not filed an application for condonation of delay giving justification for the said delay. The O.A. is therefore highly time barred. It has been held that filing of application before the Tribunal beyond the period of limitation cannot be entertained by the Tribunal unless it is satisfied that the applicant concerned has sufficient cause for not filing the same during the prescribed period of limitation (Union of India and others Vs. CAT Chandigarh and another 2003 (3) ATJ 509). The Supreme Court has held a similar view in Ramesh Chandra Sharma Vs. Udham Singh Kamal 2000 SCC (L&S) 53 that time barred application for which condonation of delay not sought under Section 21 of the A.T. Act could not have been admitted and disposed of on merit. In the instant case the applicant has not shown sufficient cause for the inordinate delay in filing the OA.

12. In view of the above, since the present O.A. is time barred and no reasons have been given to justify the inordinate delay in filing the Original Application, the Original Application is dismissed as time barred. It is mentioned here that I have not gone into the merits of the case at this stage and the Judgment is passed on the issue of limitation only. No costs.

  
Member (A) 28/5/08

/M.M/