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CAT/J/13

CENTRAL ADMINISTRATIVE TRIBUNAL  
AHMEDABAD BENCH

**O.A.NO.** 123/92 with MA/398/97  
**T.A.NO.** MA/412/97  
MA/746/97

DATE OF DECISION 21.10.97

Vyas Pravinkumar Varujlal Petitioner

Mr. M. M. Xavier Advocate for the Petitioner [s]  
Versus

Union of India & Ors. Respondent

Mr. R. M. Vin Advocate for the Respondent [s]

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The Hon'ble Mr. V. Radhakrishnan : Member (A)

The Hon'ble Mr. T. N. Bhat : Member (J)

JUDGMENT

- 1, Whether Reporters of Local papers may be allowed to see the Judgment ?
- 2, To be referred to the Reporter or not ?
- 3, Whether their Lordships wish to see the fair copy of the Judgment ?
- 4, Whether it needs to be circulated to other Benches of the Tribunal ?

Vyas Pravinkumar Varujlal,  
Near Primary Health Centre,  
Dannagar, Amreli Dist.

: Applicant

(Advocate: Mr.M.M.Xavier)

Versus

1. The Union of India  
Owning & Representing  
Western Railway,  
Through its General Manager,  
Churchgate, Bombay.
2. The Chairman, Railway Board,  
Rail Bhavan, Sansad Marg,  
New Delhi.
3. The Divisional Railway,  
Manager, Western Railway,  
Bhavnagar Division,  
Bhavnagar Para.
4. Permanent Way Inspector,  
Kunkavav Junction,  
Western Railway,  
Bhavnagar Division.

: Respondents

(Advocate: Mr.R.M.Vin)

JUDGMENT

O.A.123/92 with MA/398/97, MA/412/97  
& MA/746/97

Date: 21.10.97

Per\* Hon'ble Mr.V.Radhakrishnan : Member(A)

Heard Mr.M.M.Xavier and Mr.R.M.Vin, the learned  
counsels for the applicant and the respondents  
respectively.

The applicant in this case had worked as casual  
labour with the respondent from 31.7.81 to 20.1.1983 in  
different spells for a total period of 279 days and  
finally he disengaged on 20.1.1983. He has filed this  
application on 5.3.92.

The applicant has approached this Tribunal praying for the following reliefs:-

- (a) Your lordships be pleased to hold that the action of the respondents in not maintaining/preparing/finalising a live register/seniority list of the casual labourers/substitutes for the purpose of their engagement/reengagement/regulation etc. is in violation of the mandatory provision of Establishment Rules, circulars, I.D. Acts, in violation of principles of first come first serve, discriminatory, prejudicial, malafides, malicious, contrary to the policy decision and illegal. And to further directs the respondents to prepare and maintain a live register and engage the applicant and other casual labourers strictly in accordance with the seniority therein and to consider them for regular absorption and all consequential benefits.
- (b) Your lordships to pleased to hold that the order dated 15.4.1997 is illegal and void.
- (c) Your lordships be pleased to grant any other relief/s that may be considered to be just and proper in the circumstances of the case."

The respondents in their reply have taken a preliminary objection that though the applicant left his service on 20.1.1983, he has not been taken any action to establish his claim and he has come to this Tribunal only on 5.3.1992. Hence, the O.A. is time barred and liable to be rejected on that ground only. We may first examine the contention of the respondents without enter into the merits of the case. There is no doubt that the applicant left his service on 20.1.83 and he has filed this O.A. on 5.3.92 i.e. after a lapse of more than 9 years. We do not find any possible reason for delay in

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filing the O.A. after so many years except mentioning that the applicant was approaching the respondents personally at periodic interval and he was told that he will be engaged in due course after the ban on recruitment is lifted. However, there is no evidence on record to show that the applicant was pursuing his case for redressal. The Hon'ble Supreme Court in Civil Appeal Nos. 11547 to 11551 of 1996 was passed the following order by which the direction of the Tribunal for placing the applicant's name in the Live Register was quashed, which reads as follows:-

"These appeals have been filed on behalf of Union of India and Ors. for setting aside an order passed by the Central Administrative Tribunal directing the appellants to include the name of the petitioners-respondents in the Register of ex-casual employees. It appears from the records that such respondents had worked as casual employees but had left job in the years 1971 and 1974. Respondent No.1 ceased to be casual employee on 12.10.1984. We are not able to appreciate as to how the Tribunal could have passed such an order. Accordingly, the appeals are allowed. The impugned order is set aside. No costs."

The Hon'ble Supreme Court has also taken a similar view in SLP(Civil) Nos. 10469-10470/96 decided on 3.3.1997.

In view of the above orders of the Hon'ble Supreme Court we have no alternative to dismiss the above mentioned OA on grounds of delay and laches

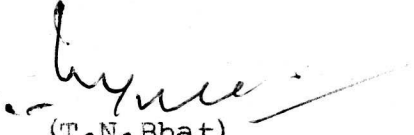
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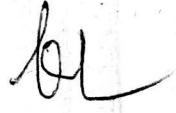
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without entering into the merits of the case.

However, we make it clear that there is no bar for the applicants to apply and to be considered for the post of casual labour to the Railways in case the respondents decide/have decided already to take the casual labourers who had already put in service in the Railways in the past as a matter of policy before going in for fresh direct recruitment. Accordingly, the O.A. is disposed of. No order as to costs.

Since the O.A. itself is disposed of, MAs. do not survive.

  
(T.N. Bhat)  
Member (J)

  
(V. Radhakrishnan)  
Member (A)



Date

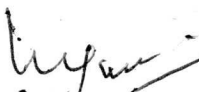
Office Report


ORDER

3.4.97

Heard Mr.M.M.Xavier the learned advocate for the applicant and Mr.R.M.Vin, learned advocate for the respondents. At the oral request of Mr.Vin, the copy of the order dated 15.4.1997 issued by the Divisional Office, Bhavnagar Para, taken on record.

Reserved for judgment.

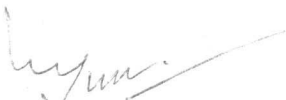
  
(T.N.Bhat)  
Member (J)


  
(V.Radhakrishnan)  
Member (A)

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30.7.97.

Both the learned advocates are present. Mr.M.M.Xavier states that he would like to file reply to the communication letter dated 15.4.1997 issued by the respondents. Hence O.A. may be listed for rehearing on 27.8.97 by which time Mr.Xavier may file reply.

  
(T.N.Bhat)  
Member (J)

  
(V.Radhakrishnan)  
Member (A)

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