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ORIGINAL APPLICATION NO. 172 OF 2006

ORDER NO.1 DATED: 28.02.2006

M.A. 39/06 has been filed by 11 individuals (who have claimed that they were casually engaged, under the Railways, between 04.01.1985 and 25.05.1986) seeking permission to prosecute their cases (claiming engagement under the Railways) jointly in O.A.No. 172/06. A copy of this M.A. 39/06 has been served on Mr. R.C.Rath, Ld. Standing Counsel for the Railways. Heard. Prayer to prosecute their cases jointly is hereby refused. The Applicant Nos. 2 to 11 have filed IPOs worth of Rs. 500/- on 27.02.2006. The same is accepted and Registry is directed to record O.A.No. 172/06 in respect of Applicant No.1, only, and assign separate O.A.Nos. for Applicant Nos. 2 to 11, immediately.

M.A. 39/06 accordingly stands disposed of.

*for all
28/02/06*

MEMBER (JUDICIAL)

ORDER NO.2 DATED: 28.02.2006

Applicant Nos. 1 to 11 have claimed that they served the Railways, on casual basis, between 04.01.1985 to 25.05.1986 and that, thereafter, they have never been given any engagement under the Railways. By filing this case under Section 19 of the Administrative Tribunals Act, 1985, the 11 Applicants have sought direction to the Respondents to include their names in the Life Casual Register maintained by the Railways and offer them engagements, as and when available, in terms of their position in

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the Life Casual Register. They have also sought direction to the Respondents to consider them for appointment according to Establishment Sl. Nos. 240/80 dated 20th October 1988. A copy of the Original Application, which was originally numbered as O.A. 172/06 has already been served on Mr. R.C.Rath, Ld. Standing Counsel for the Railways.

Heard Mr. A.K.Mohapatra, Ld. Counsel appearing for the Applicant and Mr. R.C.Rath, Ld. Standing Counsel for the Railways. A Scheme was framed by the Railways to consider the grievances of casual labourers retrenched prior to framing of the scheme and a cut of date was fixed requiring the retrenched casual labourers to approach the Railways for their re-engagement. Under the Scheme, 31st March 1987 was fixed as cut of date requiring the retrenched casual labourers to put up their grievances for being re-engaged/for keeping their names in Life Casual Register for providing engagements on future dates. As it appears, the present Applicants did not approach the authorities within cut of date, i.e. 31.03.1987 for their re-engagement. Instead of approaching the authorities, in time, the Applicants have approached this Tribunal after a lapse of 20 years in the present case. In the said premises, Mr. R.C.Rath, Ld. Standing Counsel for the Railways has pointed out that present case should not be entertained at all and should be dismissed out-right at the stage of admission itself. Mr. R.C.Rath, Ld. Standing Counsel for the Railways has pressed into service, the judgment of the Apex Court of India rendered in the case Ratan Chandra Sammanta and others vs Union of India and others and Sanat Pakhira and others vs Union of India and others reported in AIR 1993 SC 2276, in which the Supreme Court refused to entertain the claims of certain retrenched casual labourers who approached the Court after a lapse of 15

years. In Para 6 of the aforesaid judgment, Hon'ble Apex Court of India considered all aspects of the matter; relevant portion of which is extracted herein below for a ready reference:

“ Two questions arise, one, if the petitioners are entitled as a matter of law for re-employment and other if they have lost their right, if any, due to delay. Right of casual labourer employed in projects, to be re-employed in Railways has been recognized both by the Railways and this Court. But unfortunately the petitioners did not take any step to enforce their claim before the Railways except sending a vague representation nor did they even care to produce any material to satisfy this Court that they were covered in the scheme framed by the Railways. It was urged by the learned Counsel for petitioners that they may be permitted to produce their identity cards etc., before opposite parties who may accept or reject the same after verification. We are afraid it would be too dangerous to permit this exercise. A writ is issued by this Court in favour of a person who has some right. And not for sake of roving enquiry leaving scope for maneuvering. Delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation a person who has lost his remedy by lapse of time loses his right as well. From the date of retrenchment if it is assumed to be correct a period of more than 15 years has expired and in case we accept the prayer of petitioner we would be depriving a host of others who in the meantime have become eligible and are entitled to claim to be employed. We would have been persuaded to take a sympathetic view but in absence of any positive material to establish that these petitioners were in fact appointed and working as alleged by them it would not be proper exercise of discretion to direct opposite parties to verify the correctness of the statement made by the petitioners that they were employed between 1964 to 1969 and retrenched between 1975 to 1979.”

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Since the Applicants, in the case, have approached this Tribunal after a lapse of 20 years of their disengagement (if at all they were ever engaged by the Railways), their present cases are hereby dismissed.

Send copies of this order to the Respondents, along with copies of the Original Application, and free copies of this order be sent to each of the Applicants in the addresses given in the Cause Title. Free copies of this order be also handed over to Mr. A.K.Mohapatra, Ld. Counsel appearing for the Applicant and to Mr. R.C.Rath, Ld. Standing Counsel for the Railways. While granting copies, the Registry should give copies of the Cause Title pages of the Original Application; wherein names of all the Applicants and Respondents have been reflected.

Mohapatra
28/02/08

MEMBER (JUDICIAL)

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