

19

In the Central Administrative Tribunal, Jodhpur Bench,
Jodhpur

Date of Order: 13.7.2001

O.A.NO. 301/1999

Amar Singh S/o Shri Bahadur Singhji aged about 37 years,
R/o House No. 13, Shiv Shakti Colony, 8th Residency Road,
Jodhpur.

... Applicant.

Vs.

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Financial Advisor and Chief Accounts Officer, Northern Railway, Baroda House, New Delhi.
3. Divisional Railway Manager, Northern Railway, Jodhpur.
4. Divisional Accounts Officer, N.Rly, Jodhpur. ... Respondents.

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CORAM :

HON'BLE MR A.K.MISRA, JUDICIAL MEMBER

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Mr. S.K.Malik, Counsel for the applicant.

Mr. S.S.Vyas, Counsel for the respondents.

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ORDER

BY THE COURT :

The applicant had moved the present O.A. with the prayer that the respondents be directed to consider the name of the applicant for appointment on the post of Class IV from the date when persons who have put in less number of days service than the applicant, have been appointed and has also claimed cost.

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2. Notice of the O.A. was given to the respondents who have filed their reply to which no rejoinder was filed by the applicant.

3. It is stated by the respondents that the O.A. of the applicant is barred by time. The applicant was initially engaged as Casual Labour on 1.1.1980. From time to time, the applicant was engaged by the respondents till 28.3.1993. During this period, the applicant ^{was} employed for 325 days only. The respondents have denied the allegations of the applicant that he was assured orally that he would be employed as and when occasion arises. It is stated by the respondents that in a long spell of 13 years, the applicant was engaged for only 325 days commencing ~~xxx~~ from 1980. The total number of days as stated by the applicant is not sufficient enough to call the applicant for screening more specially, when his name does not find place in the casual labour live register. As per the scheme of the Railways the applicant was to make an application up to 31.3.1987 for getting his name included in the live register. The applicant had not done so, therefore, after a lapse of almost 12 years, the applicant cannot now pray for inclusion of his name in the live register and for consideration for employment. It is also stated by the respondents that vide order dated 16.3.2001 delivered by ~~the~~ ~~this~~ Bench of the Tribunal, number of applications were disposed of involving similar controversy, therefore, the present case also deserves to be dismissed.

4. I have heard the learned counsel for the parties and have gone through the case file.

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5. In this case, the applicant alleges that he had worked as casual labour for number of days with the Railways starting from 1.1.1980 to 28.3.1993, but this is un-disputed that the applicant had made no representation for inclusion of his name in the casual labour live register in terms of the Circular dated 2.3.1987 as mentioned in the Circular dated 14.8.1987, Annex.R/1. As per the Circular dated 2.3.1987 the applicant was to make a representation to the Railway Administration up to 31.3.1987 for inclusion of his name in the casual labour live register. Since he had not made such representation at the relevant time, therefore, in my opinion, after a lapse of 12 years he cannot claim such a relief. The relief claimed by the applicant is hopelessly time barred. The controversy involved in this case is squarely covered by the order of this Tribunal dated 16th March, 2001 passed in O.A.NO. 332/1998 and connected number of O.As. In the aforesaid order, it was held that the casual labour who had been working after 1.1.1981 and was retrenched at any time subsequent thereto, was to make a representation in terms of Circular dated 2.3.1987 before 31.3.1987. In this case also, the applicant is praying for inclusion of his name in the casual labour live register in terms of such scheme. I do not find any reason to have a different view than the one taken by a Division Bench while deciding the aforesaid O.As.

6. The learned counsel for the applicant has cited 2000 (1) ATJ 153 & Shish Pal Singh and Ors. Vs. Union of India and Others and argued that the objection relating to limitation raised by the respondents was negatived by the Hon'ble Delhi High Court and the case was remanded for a fresh decision treating the cause of action as continuing

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one. Therefore, the case in hand be decided accordingly.

7. I have given my thoughtful consideration to the above argument but ~~I am unable to agree to this.~~ As indicated above I have no reason to dis-agree to the order of the Division Bench of this Tribunal. It is debatable that whether in such matters inclusion of name of a labourer in casual labour live register after a lapse of twelve years is a continuing cause of action. In my humble opinion, ~~for~~ where~~/~~ an appropriate action a cut-off date is given then limitation comes to an end on that cut off date, if no timely action is taken in the meantime. Therefore, the argument of the learned counsel for the applicant deserves to be rejected.

8. In view of the above discussions, the present O.A. deserves to be dismissed. The applicant is not entitled to any relief as claimed by him.

9. The O.A. is, therefore, dismissed with no order as to costs.

Am
(A.K.MISRA)
Judicial Member

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Revd 2007
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Part II and III destroyed
in my presence on 16/5/07
under the supervision of
section officer (1) as per
order dated 13/3/07
M.G. M
Section officer (Record)

HC
Gaur 24/7/2007