

Date of decision : 14th May 2007.

(I) **O.A.NO.21 OF 2006**

Narendra Kumar S/o Sh.Surjaram, aged about 43 years, Resident of C/o Sh. Surja Ram, Ward No.12, Behind Mohta College, Sadulpur, Ex Casual Labour, North-West Railway, Sadulpur.

(II) **O.A.No.195 of 2006 with M.A.No.102 of 2006**

Mangtu Ram S/o Sh.Sanwal Ram, C/o Surja Ram, aged about 43 years, Resident of C/o Sh. Surja Ram, Ward No.12, Behind Mohta College, Sadulpur, Ex Casual Labour, North Wes Railway, Sadulpur.

(III) **O.A.No.196 of 2006 with M.A.No.103 of 2006**

Raj Kumar S/o Sh. Ram Chandra, aged about 44 years, Resident of C/o Sh. Surja Ram, Ward No.12, Behind Mohta College, Sadulpur, Ex Casual Labour, North-West Railway, Sadulpur.

Applicants

By : Mr. Y.K. Sharma, Advocate.

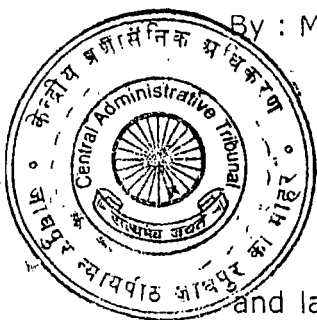
Versus

Union of India through :-

1. General Manager, North-West Railway, Jaipur.
2. Divisional Railway Manager, North-West Railway, Bikaner.
3. Divisional Personnel Officer, North-West Railway, Bikaner Division, Bikaner.

Respondents

By : Mr.Salil Trivedi, Advocate.



ORDER
(HON'BLE MR.TARSEM LAL, AM)

All these Original Applications involve similar questions of facts and law and as such these are being taken up for final decision by a common order. For the facility of reference, the facts have been taken from O.A.No.21 of 2006 titled **Narendra Kumar Vs. Union of India & Others.**

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2. The applicant has claimed in his Original Application that he was engaged as a hot Weather Waterman at Gogameri Station from 10.8.1979 to 5.9.1979 and continued to work as such from time to time in broken spells, for a total period of 134 days during the period from 10.08.1979 to 27.9.1982. Then he was engaged as Hot Weather Waterman at Sadulpur Station from 1.5.1985 to 14.9.1986 and during these two years, he has worked for about 213 days. In support of this, he has annexed copy of Casual Labour Card (Annexure A-2).

3. As per General Manager (P) Letter dated 21.3.1974 (Annexure A-3), casual labourers, other than those employed on project, should be treated as temporary, after expiry of four months continuous employment. Administration was directed to bring the casual labour on authorized scale of pay who were employed for a period of 4 months. Rule 2001 of Indian Railway Establishment Manual Vol. II also provides that casual labour engaged on open line works, who continued to do same work for which they were engaged or other work of the same type for more than 120 days without a break be treated as temporary. As per Printed Serial No.8677, issued vide letter dated 25.1.1985 (Annexure A-4), casual labour waterman employed in the Summer Season should be eligible for temporary status on completion of 120 days of continuous employment. For counting the total number of days of continuous employment, various spells of engagement as Casual Water man can be aggregated.



4. The applicant claims that he had completed more than 120 days on 27.9.1982 in 1982 and 137 days of work in 1985 and 76 days in 1986 (total 213 days of continuous service) and as such he was to be given the benefits of above instructions. The Respondent No.2, issued a Circular dated 20th April, 1987 and 9.11.1987 (Annexure A-5 and A-6) respectively to all concerned of Bikaner Division and invited applications from casual labourers as well as from subordinate incharges for maintaining of live Casual Labour Register. In compliance thereof, Station Master Gogameri sent required information to respondent no.3 under letter dated 2.4.1987, 25.4.1987 and 12.11.1987 (Annexures A-7, A-8 and A-9 respectively) for entering name of the applicant in the said Register. Names of other two applicants are also mentioned in these letters. The purpose of the Live Casual Register is to absorb the casual labour in regular employment, either against vacancies arising in the normal course or by creating the same in the process of decasualisation.



5. The Railway Board further issued instructions dated 25.4.1986 (Annexure A-12) indicating that the names of such casual labourers as were discharged from employment at any time after 1.1.1981 on completion of work or for want of further productive work, can continue to be borne on the live casual labour register. Again vide letter dated 14.8.1987, it was laid down by Headquarters Offices that while maintaining live casual register, those casual labours discharged prior to 1.1.1981 and had not worked for two years, their name should be deleted

except such casual labour who had made special representation in terms of PS No.9191 and 9195 to be executed up to 31.3.1987 and considered eligible. All casual labours who were discharged after 1.1.1981, their names are to be continued on the live casual labour register indefinitely.

6. On the basis of above circulars, the applicants claim that they are entitled to have their name put on the live casual labour register for engaging / screening / regularizing them in Group D posts as they had already worked for more than 120 days as a casual labour and had applied to get their name entered in live casual register before 31.3.1987. However, they have been denied this benefit, whereas persons junior to them have been brought on the casual live register and in fact they have been given appointment in Group D posts.

7. When applicant came to know that junior to him have been appointed as Group 'D', he submitted a representation on July 25, 2002 (Annexure A-13) claiming similar benefits. Finding no response, he filed O.A.No.192/2003 before this Bench of the Tribunal. Other two applicants had also filed similar O.As. Those three O.As were disposed of by a common order dated 4.2.2005 (Annexure A-14), giving the respondents an opportunity to consider the contents of O.As as a representation and pass a speaking order on the same. It was also observed that if applicants feel advised, they may agitate the matter again. The operative portion of the orders of this Tribunal is as given below:



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"Considering that the respondents had no opportunity to verify the claim made by the applicants and that the matter concerns labourers who are alleged to have worked on daily wages, in the interest of justice, it would be appropriate if the respondents are given an opportunity to consider the contents of the O.As as a representation and pass a speaking orders on the same within 90 days of the receipt of a copy of this order and communicate the same with next 30 days to applicants. This would allow them to verify the claims and documents annexed to the O.A. It goes without saying that the applicants, if so advised, may agitate the matter again. Application disposed of accordingly. No costs."

8. The applicant submitted a representation-dated 19.2.2005 (Annexure A-15). Other two applicants also submitted similar representations. However, the request of the applicants has been turned down vide Annexure A-1, dated 6.6.2005 (Annexure A-1). Aggrieved by the above orders, applicants have asked for the following relief from this Tribunal:



i. That this Hon'ble Tribunal may kindly to quash and set aside the impugned order vide annexure A/1 dated 06.06.2005

ii. That this Hon'ble Tribunal may kindly be pleased to direct the respondents to place the names of the applicants, if not already done, in the live casual register for the year 1987.

iii. That the respondents may further be directed to disclose seniority position of the applicant in the Live Casual Labour Register, Screen and absorb the applicant in regular "D" posts with all consequently benefits.

iv. x x x"

9. Respondents have filed a detailed reply to oppose the claim of the applicants and they have not agreed to any of the relief sought by the applicants. Their contention is that the Original Application cannot be said to be within the prescribed of limitation by challenging the orders dated 06.06.2005. The challenge to order dated 6.6.2005 cannot revive a cause of action, which arose in 1987. The O.A. is barred

by limitation as prescribed in section 21 of the Administrative Tribunals Act 1985. The Original Application suffers from gross delay and laches. Similar claim lodged in O.A.No.332 of 1998 titled **Bisna Ram Vs. Union of India & Others**, before this Bench of Tribunal was dismissed on 16.3.2001 on the ground of limitation.

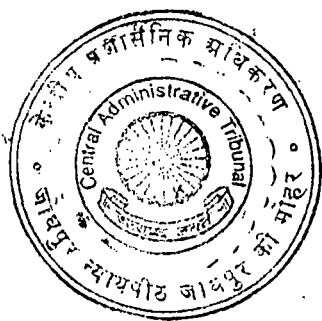
10. In terms of Railway Board's instructions contained in PS No.6963 dated 27.2.1978, there was restriction/ban on the intake of fresh face casual labour on open line except with the personal orders of the Divisional Superintendent now DRM. Subsequently the Railway Board vide PS No.7716-A dated 3.1.1981, imposed a complete ban on engagement of fresh casual labour in the Railways w.e.f. 3.1.1981 without obtaining prior approval of General Manager. Thus, only those Hot Weather Waterman had to be engaged in the respective years who had worked as casual labours prior to 1.8.1978. Notifications were issued from time to time for engagement of such Waterman on each years, as would be evident from letter dated 16.3.1981, 10.4.1981, 9.4.1982, 27.4.1983, 6.3.1984, 23.3.1985, 20.3.1986, 23.3.1987 and 6.4.1988 etc. Copies of three such notifications are Annexures R-1 to R-3. In these instructions it is provided that no fresh face intake of casual labour be induced except those who had worked as casual labour prior to 1.8.1978 and had worked under them in the previous summer sessions. It is evident that the applicants had never worked as casual labour prior to 1.8.1978 therefore, they were not eligible and entitled to be engaged as Hot Weather



Waterman in the year 1979 i.e. on his first engagement as fresh face on 10.8.1979 because at the relevant point of time, only Divisional Superintendent i.e. DRM was empowered to accord approval for fresh face but in this case no approval was granted by the competent authority for the engagement of the applicant as fresh face casual labour Hot Weather Water-man.

11. In so far as casual labour card is concerned, they submit that date of birth of the applicant as recorded in the card is 8.6.1962 and according to his initial engagement on 10.8.1979, he was under age i.e. below 18 years of age. Thus, it was not permissible to engage him as casual labour in Government department when he was below 18 years of age. Moreover, such kind of casual labour cards were not in existence or in practice at the relevant point of time in terms of Railway Board's instructions contained in PS No.5552 dated 30.11.1971 dated 30.11.1971 (Annexure R-4).

12. It is further submitted that the case of applicant is 26 years old and the relevant record / documents, after a lapse of over 26 years, are not available at Gogameri Station or otherwise to verify whether the applicant has worked as claimed by him on that station. As per the Station Superintendent, North Western Railway, Sadurpur letter dated 27.12.2003, the applicant worked as Hot Weather Waterman at SDLP Station for 92 days during the months of entire May, June and July, 1985 and 76 days during 7.7.1986 to 31.7.1986, 1.8.1986 to 31.8.1986 and 1.9.1986 to 14.9.1986. Copy of the letter



showing this is enclosed as Annexure R-5. The period during which applicant has allegedly worked, has not been verified and attested by the SS/SDLP and the concerned register was not closed under the signature of the concerned SS at the relevant time. The applicant had not worked as casual labour prior to 01.08.1978 as per record of SDLP Station. The applicant has never put in 120 days of continuous service. Therefore, circulars mentioned by the applicants are not applicable to them.

13. Moreover, the last date for submission of application for registration in Live Casual Register was 31.03.1987 and it has been very categorically mentioned in this PS that no application shall be entertained after 31.03.1987. The applicant has failed to establish as to when he submitted application for registration of his name in the Casual labour live register. This controversy has been decided by this Tribunal vide its order dated 16.03.2001 wherein it has been categorically observed that it is not possible for it to entertain their application for placing them in the live register after a lapse of 12 to 14 years whereas in the instant case there is delay of more than two decades, therefore, the applicant is not entitled for relief claimed by him.



14. As per PS No.8634, if a casual labour retrenched on completion of work, does not accept the offer made to him or does not turn out to work when offered on availability of fresh work, he loses the benefits of previous spell of his employment as casual labour. If the applicant had ever worked at Gogameri

Station during 1979, he would have reported to the concerned Station Master Gogameri in the year 1981, 1982, 1983, 1984 for his re-engagement as Hot Weather Water man, but he failed to do so which shows that his working period from 10.8.1979 to 5.9.1979 was not proper. The applicant never represented for getting his name entered in the Live Casual Labour Register. They support the impugned order. No rejoinder has been filed by the applicant.

15. The applicants in O.A.No.195 of 2006 and O.A.No.196 of 2006 have filed Miscellaneous Applications for condonation of delay in filing the Original Applications. They have submitted that there is delay of only one day. Otherwise also, the applicants have recurring cause of action and as such the O.As be treated as being within the period of limitation.

16. Learned counsel for the parties have been heard at length and material on the file has also been perused.

17. The learned counsel for the applicants re-iterated the argument already given in the Original Applications. He emphasized that vide Annexure A-10 the applicant had intimated the Station Master Gogamari of the details of 134 days he worked with him during 10.08.1979 to 27.09.1982 for including his name in the Live Register. Further Station Master Gogamari had written to the *Divisional* Personnel Officer vide Annexure A-7, A-8, and A-9 for entering the names of three applicants in the live register but no response has been received.



18. The learned counsel for the applicant submitted that present O.As are not barred by time as the delay has already been condoned by this Bench of the Tribunal in earlier O.As filed by the applicants. Since the observations of the Tribunal are relevant, the same are reproduced as under:

"There was no prayer for condonation of delay in any of the other O.As and, therefore, all the O.As were dismissed. Compared to that 'we find the present M.As are slightly different'. It is also found from the order quoted by the respondents that the claim of employment made by the applicants in those batch of cases were verified by the respondents and a clear-cut chart furnished to show the period of engagement and dis-engagement. It also appears that the respondents came-up with their arguments on specific points with respect to the nature of employment under gone by the applicants and which ranged from year 1974 in some cases. In the instant case, we find that the employment claimed to be under the respondents is beginning year 1979 and ending 1986. In the cases quoted by the respondents, there is a specific averment that they could verify the service details of the applicants therein. In the instant case there is no mention about the authenticity of efforts made to verify the claim except the statement that it is an old case. M.As for condonation of delay are therefore allowed."

19. Then learned counsel for applicant submitted that the Bench had condoned delay on the basis of a decision of the Delhi High Court in the case of Shish Pal Singh & others Vs. Union of India & Others, 2000(1) ATJ, Page 153 in which claim of a casual labour was involved. They were engaged during 1980-82 and were conferred temporary status and they were to be kept on live register. The applicants name were not in live register. However, junior to him were re-engaged in 1997-98. When they made a prayer for re-engagement, it was rejected on the ground of limitation. The Hon'ble High Court held that cause of action accrued to them in 1997-98 and even otherwise the cause of action is a continuous one:



20. Learned counsel for applicant then referred to a decision of Principal Bench of C.A.T. in the case of **Biloo Singh & Others Vs. Union of India & Others**, 2001 (3) ATJ, Page 626 which was rendered placing reliance on the decision in the case of **Shish Pal Singh & Others** (supra) and concept of recurring cause of action has been applied in that case and O.A. was allowed and plea of limitation was rejected.

21. He also placed reliance on the decision in the case of **Ram Mohan Vs. Union of India & Others**, 2002 (1) ATJ, Page 634 delivered by the Allahabad Bench of this Tribunal. This O.A. was also allowed on the basis of decision in the case of **Biloo Singh & Others** (supra).

22. Learned counsel for the respondents vehemently argued that this O.A. is badly barred under the law of limitation. In support of this plea, he placed reliance on the decision of this Bench of the Tribunal in an earlier O.A. No.332/1998 in which a similar claim like present O.A. raised in a bunch of petitions was turned down by a common order by a Division Bench of this Tribunal. It has been held therein that whatever rights of the applicants had for inclusion of their names in the live casual labour register, it is only on the basis of Circular of the Railway Board and such an opportunity for getting their names included, unfortunately, the applicants themselves had not filed their representations with the department on or before 31.3.1987. In view of this, the Bench observed that it is impossible for it to



entertain their applications for taking their names in the live casual labour register, nearly after 12 to 14 years. Thus, no merit was found in the claim of the applicants. Had the applicants submitted representations in time with documentary proof, it would have been possible for respondents to examine the same. That exercise is not possible to be undertaken at this juncture of time. In all probability, the concerned records might have been destroyed by the department after 3 to 4 years of the limitation under the relevant record destruction rules. On the basis of this judgment, learned counsel for respondents submits that present one is the similar claim. There is serious doubt over the authenticity of Casual Labour Card and documents, Annexures A-6 to A-8, relied upon by the applicants. Moreover, it is the specific stand of respondents that the concerned record is not available at this juncture. Thus, present O.A. is also liable to be dismissed.

23. Learned counsel for the respondents submitted that applicants cannot take benefit of decision of this Bench in the earlier case of applicants, which in turn was based on decision of Hon'ble High Court of Delhi in the case of Shish Pal Singh & others, as the issue raised in these O.As are being decided independently and the order to be passed in these cases cannot be supplemental to earlier decision and this Bench is free to examine all the issues including point of limitation independently having been pressed by respondents.



24. Learned counsel for the respondents submitted that the earlier decision of this Bench of the Tribunal in the case of the applicants has to be held to be per incuriam, as in that case the respondents had placed reliance on a judgment of the Hon'ble Supreme Court of India in the case of **Ratan Chandra Samanta & Ors. vs. The Union of India & Ors with Sanat Pakhira & Others Vs. Union of India & others** JT 1993 (3) SC 418. In these cases their Lordships of Supreme Court in similar circumstances, including considering the effect of circular issued by the Railway Board, have held that such a cause of action was barred by time. The observations of the Hon'ble Supreme Court are as under:

"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 steps 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 verifications. We are afraid it would be too dangerous to permit this exercise. A writ is issued by this Court in favour of person who has some right. And not for sake of roving inquiry 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 legalization a person who has lost his remedy by lapse of time before 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".



25. Thus, there is a clear finding of the Hon'ble Supreme Court in similar circumstances that if after a delay of about 15

years, if claim of a litigant is allowed, it would amount to depriving host of other persons who in the meanwhile have become eligible and entitled to claim employment.

26. Learned counsel for the respondent relied on the case of **P.K. Ramachandran vs State of Kerala and another** (1997) 7 SCC 556 in which the Apex Court held that :

"Law of limitation may harshly affect a particular party but it has to be applied with all its rigour when the statute so prescribes and the court have no power to extend the period of limitation on equitable grounds. The discretion exercised by the High Court was, thus, neither proper nor judicious. The order condoning the delay cannot be sustained".

27. The learned counsel further pressed into service decision in the case of **Ramesh Chand Sharma Vs. Udham Sing Kamal and Others** 1999 AIR SCW 3911, to resist the claim of applicants on limitation. In that case, the Apex Court held :



"In our opinion, the OA filed before the Tribunal after the expiry of three years could not have been admitted and disposed of on merits in view of the Statutory provision contained in Section 21 (1) of the Administrative Tribunals Act, 1985. The law in this behalf is now settled. See Secretary to Government of India Vs. Shivram Mahadu Gaikwar, 1995 Supp (3) SCC 231".

28. Learned counsel for applicants argued that this Bench cannot deviate from the view taken by another Bench in the same case of the applicants and the decisions rendered in the cases of **Biloo Singh (supra) and Ram Mohan (supra)** which have a binding effect.

29. The submissions have been considered. I find that there are two views on the same issue, i.e. one by the Hon'ble High Court of Delhi as followed by the Principal Bench and Allahabad Bench including one by this Bench of the Tribunal holding that concept of recurring cause of action would apply in such cases. However, contrary to this is decision of the Hon'ble Supreme Court and Full Bench of C.A.T. Principal Bench in the case of **Mahabir & Others Vs. UOI etc.** 2000 (30 ATJ, Page 1. The Apex Court has held that if such claimants are allowed to produce their identity cards etc. before the department who may accept or reject the same after verifications, but it would be too dangerous to permit this exercise and a writ is issued in favour of a person who has some right and not for sake of proving inquiry leaving scope for maneuvering. Delay itself deprives a person of his remedy available in law. It was held that *if one is to accept such belated prayer, it would amount to depriving a host of others who in the meantime have become eligible and are entitled to claim to be employed.* Relying upon this decision and decision of Apex Court in the case of **State of Punjab & Others Vs. Gurdev Singh**, (1991) 4 SCC 1 and **Bhoop Singh Vs. Union of India & Others**, 1992 (2) SLJ 103, the Full Bench of C.A.T. in the case of **Mahabir and Others** (supra) has held that provisions of the relevant Railway Board's Circular dated 25.4.1986 followed by the circular dated 28.8.1987 issued by General Manager, Northern Railway for placing the names of casual labour on the live casual labour register do not give rise to a continuous cause of action and hence the provisions of limitation contained in Section 21 of the





notice of Full Bench decision of this Tribunal in the case of **Mahabir & Others (supra)**, but proceeded to declare that decision as per incurian in view of the decision of the Hon'ble Delhi High Court on the premises that decision of Delhi High Court was not take care of by the Full Bench. However, It appears that the Apex Court decisions relied upon by the Full Bench of C.A.T including one in the cases of **Ratan Chandra Samanta & Ors and Sanat Pakhira & Others** (supra), escaped notice of the Bench. In fact In view of the law laid down by the Apex Court in the cases of **Ratan Chandra Samanta & Ors with Sanat Pakhira & Others** (supra), which was not taken note of by the Hon'ble Delhi High Court, its decision in the case of **Shish Pal & Others** (supra) was per incuriam. Now I proceed to decide the other issues raised in these cases.

30. The prayer made by the applicants in these O.As. is for direction to respondents to place names of applicants, if not already done, in the live casual register for the year 1987. The applicants, as per their own version, applied for inclusion of their names in the Casual Live Register in the year 1987 itself. However, admittedly their names were not entered. Thus, the cause of action, if any, arose to the applicants in the year 1987 itself. That being so, these Original Applications are barred by law of limitation, as well as delay and laches. Surprisingly, the applicant Narendra Kumar has not even cared to file any application for condonation of delay. In other two O.As. applications seeking condonation of delay have been filed but in their wisdom, the applicants claim that there is only one day's



delay and the applicants have recurring cause of action in their favour. The applicants are counting the cause of action from the issuance of impugned order, Annexure A-1, which was passed on 06.06.2005. This line of argument cannot be accepted as original cause of action had arose to them in 1987 and the impugned orders simply reiterate the position which was available at that point of time. The entertaining of representations even on direction of this Tribunal, in 2005, will not give them a fresh cause of action or revive a claim which relates back to 1987. It is well settled that the limitation starts from original cause of action and repeated representations do not extend period of limitation, as held in High Court of A.P., Vs. Mahesh Parkash & Others, 1995 SCC (L&S), Page 278. It has been further held that even if a delayed representation is considered and rejected, limitation cannot extend the period of limitation, as held in the case of Administrator of U.T. of Daman & Diu & Others Vs. R.D. Valand, ATC 1996 (32), Page 148. Para 4 of the judgment being relevant is reproduced as under:



"We are of the view that the Tribunal was not justified in interfering with the stale claim of the respondent. He was promoted to the post of Junior Engineer in the year 1979 with effect from 28-9-1972. A cause of action, if any, had arisen to him at that time. He slept over the matter till 1985 when he made representation to the Administration. The said representation was rejected on 8-10-1986. Thereafter for four years the respondent did not approach any court and finally he filed the present application before the Tribunal in March 1990. In the facts and circumstances of this case, the Tribunal was not justified in putting the clock back by more than 15 years. The Tribunal fell into patent error in brushing aside the question of limitation by observing that the respondent has been making representations from time to time and as such the limitation would not come in his way."

The above law laid down by the Hon'ble Supreme Court squarely covers the present cases.

31. The contention of applicants that they have recurring cause of action is also of no help to them as the concept of recurring cause of action as laid down in the case of **M.R. Gupta Vs. Union of India & Others**, 1996 (1) SCT, Page 8, has been held to be applicable in matters such as fixation of pay etc. and not in matters, which have been raised in this O.A. In any case the observations of the Hon'ble High Court of Delhi in the case of **Shish Pal & Others** (supra) are also of no help to the applicant and the decision has been held to be per incuriam, in the above paras.

32. Secondly, similar claims lodged in a bunch of petitions in the cases of **Bisna Ram etc.** (supra), were also dismissed and I do not find any reasons to deviate from the view taken in those cases. Thus, these O.As are held to be barred by law of limitation, as well as by delay and laches and are liable to be dismissed.

33. Even on merits, I find that entire claim of applicants hinges on the Casual Live Register Card produced by them. There is a positive averment on the part of the respondents that such casual labour cards, as produced by the applicants, were not even in existence at that point of time and as such these are fictitious. If the age of the applicants as recorded in those Cards is taken to be true, then they were allegedly engaged even before 18 years of age, which is not permissible. This itself indicates that the cards produced by the respondents are bogus. The counsel for the applicants then referred to letters dated



20.4.1987 (Annexure A-5) and 9.11.1987 (Annexure A-6) vide which applications were called for inclusion of names of applicants in the casual live register and the desired information was sent by the Station Superintendent, Gogameri, vide letter dated 2.4.1987 (Annexure A-7).

34. However, on an inquiry it transpired that applicant Narendra Kumar had worked at Gogameri Station only from 1.5.1985 to 14.9.1985 and 1.7.1986 and 14.9.1986. It is positive averment of respondents that either the applicant had not worked at Gogameri Station for entire period as claimed by him or if he had worked, the record has been misplaced by applicant himself, as he submitted the letter of SS Gogameri dated 2.4.1987. SS Gogameri wrote this letter on 2.4.1987 in advance i.e. before 16/20.2.1987 and 9.11.1987 and as such these documents appear to be bogus.

35. It is also their positive averment that applicants have not submitted any documentary proof showing that in compliance to the instructions issued under PS No.9191 and 9195, they had made representation along with the documentary proof of service to the SS/Gogameri and DRM Office/Bikaner through RAD as mentioned in the said PS No.9191 and 9195. They also deny receipt of representation-dated 5.7.2002 and as such the respondents have expressed helplessness in taking any action after a lapse of 17 years. The applicants have not filed any rejoinder to controvert these pleas by placing any other document. Thus, court has no hesitation in



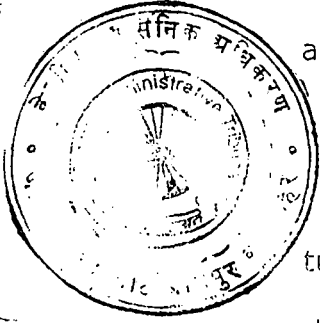
going along with the line of argument raised on behalf of the respondents.

36. The contention of the applicants is that they have rendered about 120 days of regular service and as such their names are liable to be entered in the casual live register. This plea has been controverted by the respondents stating that they never put in 120 days of continuous service and as such their claim is not covered within the circulars relied upon by them, more so when there is huge delay. The application for registration of name in casual live register were to be submitted on or before 31.3.1987. The applicants have claimed that it was duty of the respondents to take suo moto action. However, If the respondents were not taking any action, the applicants could have approached this Tribunal at that point of time itself to claim the relief, which is being claimed now in these O.As.

37. Additionally, neither of the parties has demonstrated before us that the engagement of the applicants was through proper process of selection by competition and persons, who are engaged in such fashion, do not get any right for regularization of their services as it would amount to back door employment in violation of article 14 of the Constitution. This view has been taken by the Hon'ble Supreme Court of India in the case of **Secretary, State of Karnataka & Others Vs. Umadevi & Others**, AIR 2006 SC Page 1806.



38. The applicants have mentioned that they submitted representations for inclusion of their name in casual live register when they came to know that juniors to them have been regularized. They have not mentioned name of any such junior in the Original Application. Moreover, by virtue of delay and laches, number of persons might have been engaged and regularized and may have been further promoted and have acquired vested right and if claim of applicants is allowed, that would amount to unsettling the settled things. Thus, even on merits, the O.As. are found to be devoid of any substance and are liable to be dismissed.



39. In view of the above discussion, all the three O.As turn out to be barred by law of limitation, delay and laches and devoid of any merits and as such are dismissed. M.As No. 102/2006 and 103/2006 are also dismissed. In the facts and circumstances of these cases, the parties are left to bear their own costs.

Sd/-

CERTIFIED TRUE COPY

Dated... 14.5.2007

(Tarsem Lal)
Member(A)

Neelesh

अनुमान अधिकारी (न्याय.)

Section Officer (Judl.)

केन्द्रीय प्रशासनिक अधिकरण

Central Administrative Tribunal

जोधपुर न्यायपीठ, जोधपुर

Jodhpur Bench, Jodhpur.

HC*

R/c
(Satisfied)
Final
10/10
2007/04
BPS