

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH
CALCUTTA

O.A. 1001/1997

Date of order: 11.02.2004

Present : Hon'ble Mr. N. Prusty, Judicial Member.
Hon'ble Mr. N.D. Dayal, Administrative Member.

Shri Santi Ranjan Ghosh and two Ors.

- V e r s u s -

Union of India & Ors.

(C.L.W.)

For the applicant : Mr. K. Sarkar, counsel.

For the respondents : Mr. S.M. Ahia, counsel.

O R D E R

N.D. Dayal, AM

The three applicants in this case have stated that they had worked as casual labourers under different officers of the CLW: The applicant No.1 without any break from 1.3.69 to 31.7.69 for a total of 150 days under Superintendent (Fettling Steel Foundry), the applicant No.2 in three spells from 2.2.73 to 11.11.74 for a total of 403 days under the same officer, and applicant No.3 in eight spells from 1.4.78 to 31.12.78 for a total of 223 days under the Electrical Foreman.

2. According to the applicants, they were issued working certificates, Casual Labour Cards. Copies of casual labour card are stated to be at Annexure-A/1 to the application. They have relied upon decision of this Tribunal dated 22.7.88 whereby four O.A Nos. 890, 891, 892 & 893 of 1987 were allowed and citing the case of Inder Pal Yadav Vs. Union of India & Ors. of 1985 have claimed to be similarly situated and hence eligible for appointment accordingly. They have also pointed out that the Regional Labour Commissioner, Asansol, wrote a letter dated

15/16.4.97 to the GM (Personnel), C.L.W. Burdwan, quoting the decision of the Tribunal and enclosing representations with request for favourable consideration. The applicants have contended that in terms of I.R.E.M., Vol.1, para 2001, since they had worked for 120 days they should be given temporary status and after that they should be regularised. However, the respondents have refused to give them any appointment nor they have given any reply or called them to appear before the Screening Committee to verify the documents. The applicants, therefore, pray for a direction upon the respondents to regularise the services of the applicants in the railways with immediate effect.

3. The respondents in their reply have strongly contended that the applicants have no genuine case as their claim of previous casual service has been put forward with fabricated and forged documents. It is categorically stated that the applicants never worked under the Railways in any capacity. Hundreds of genuine casual labourers have applied against the notice for regular appointment issued in the past and on verification as well as after the selection process, many of them were appointed on regular basis in Gr. D. However, the present application is false as also evident from the fact that the date of birth of applicant Nos. 1 and 3 shown in the zerox copy of what is supposed to be their casual labour card, shows that their age was less than 18 years which is not permissible for engagement in Government.

4. The respondents have also pointed out that the judgement of this Tribunal dated 22.7.88 is not relevant in their case. On a perusal of the judgment it is seen that the facts and circumstances of the same are not similar to those of the present case wherein the documents produced by the applicants have been scrutinised by the respondents and contested as false and fabricated thereby casting ~~doubt~~ on the basic

claim of the applicants that they had worked as casual labourers for different periods of time. The present case is also dissimilar since no directions of the Railway Board are involved nor is the principle of 'last-cum-first- go' relevant in the case put forward by the applicants. As such merely a bald statement by the applicants claiming to be similarly situated as those in the application decided by this Tribunal in its order dated 22.7.88 without drawing any comparison in support thereof can hardly be of any assistance to the applicants.

5. The respondents have also taken an objection that the application is hopelessly barred by limitation since it has been filed after about 28 years of their alleged working as casual labourers even though this Tribunal started functioning w.e.f. 1985. They have also not approached any of the lower Courts or the High Court at Calcutta which might have been expected if their case was genuine. The reason for delay in coming to the Tribunal has been explained in the application as due to the applicants being unemployed youths and residing in a distant place from the office of the Tribunal because of which they could not come to the court in proper time. Further, they have contended that the question of limitation should not arise in their case because they are similarly situated persons to whom the bar of limitation would not apply in terms of the law laid down by the Hon'ble Supreme Court in a number of judgements. However, no judgement has been cited. Besides as observed above the applicants are not similarly situated. Admittedly, the applicants claim to have worked about 25 to 30 years ago as per their own statement and the grounds advanced by them for such a long delay are neither sufficient or reasonable nor convincing enough to be acceptable. As such the application is liable to be rejected on this ground alone.

6. Having heard the ld. counsel and perused the pleadings we find considerable force in the contention of the respondents. Further, the annexed copies of casual labour card, purportedly issued in the name of the applicants, appear to be photo-copies of different pages brought on to a single sheet in close juxtaposition, and it has not been established that the entire information xeroxed on to the single sheet relates to the same genuine casual labour card. The inconsistency in the age of the applicants vis-a-vis their dates of engagement and the absence of any other reliable record also makes it difficult to find support in the pleadings for the case of the applicants. Besides, the recommendation of the Regional Labour Commissioner on the basis of the judgment of this Tribunal dated 22.7.88 would also not be of any help to the applicants.

7. Therefore, the application which fails, both on the ground of limitation and on merit, is dismissed. However, there will be no order as to costs.



Member (A)



Member (J)

a.k.c.