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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

CIRCUIT BENCH

LUCKNOW

O.A. No. 1111/97

Shyam Vir Singh & others

Applicants.

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. A.B. Gorthi, Adm. Member.

(Hon. Mr. Justice U.C. Srivastava)

This is an application under section 19 of the Administrative Tribunals Act, 1985. The applicants, five in number, claimed that they were employed and worked as casual labour under the Inspector of Works, Northern Railway, Balamau at various points of time, have been thrown out of service and/such they have prayed that a declaration may be granted that they were entitled for inclusion of their names in the list which should be prepared within a time to be fixed by the Tribunal and they may further be engaged as casual labourers in accordance with the seniority, for which the respondents be ordered to comply. According to the applicants, they worked for the following periods:

<u>Names</u>	<u>Period</u>	<u>Days</u>
1. Shyamvir	27.6.69 to 13.8.79	735
2. Nathu Lal	13.8.75 to 14.12.79	305
3. Rakesh Kumar	5.7.76 to 14.6.80	436
4. Munnal Lal	4.7.77 to 23.9.78	334
5. Nazeer	17.12.75 to 14.7.85	1064

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It is thus, the own case of the applicants that even after they have worked, at least four of them ceased to work in the year 1978, 1979, one in 1980 while the fifth one in the year 1985 and after several years, they approached the Tribunal. According to them, they have been making representations and personal approaches and have filed a copy of one representation said to have been given by them on 15.4.87. The respondents, in their counter affidavit have not only challenged the maintainability of this joint Application, but have also asserted that the same is barred by time. It has been denied that any such representation was ever filed and according to the respondents <sup>brought into existence recently</sup> ~~the document has been~~ <sup>u</sup> so that the applicants may get an opportunity of coming before the Tribunal. It has been further stated that the applicant No. 1 was holding the post of Director, U.P. Sugarcane Society, Lucknow during 1976-85.

He was a student of a College of Hardoi and he also fought election for the Town Area. The applicant No. 3 was also a regular student of Tulsi Ashram High School, Hardoi except Nazeer applicant No. 5.

According to the respondents, the casual labour cards ~~fix~~ filed by them are nothing but forged one. So far applicant No. 5 Nazir is concerned, it has been stated that Nazir undoubtedly has been engaged as casual labour on work side on daily wage basis. His employment was intermittent based on requirement but no details of such appointment have been given. Without entering into the question of forged labour card, said to have been produced by applicant No. 5, <sup>it</sup> ~~it~~ is

obvious that the applicants' claim is barred by time, as they are coming after several years. As there is no proof that any representation was filed by them, the alleged representation of 1987 is also under dispute. The claim of applicants No. 1 to 4 is liable to be thrown on the ground of mis-joinder of causes of action of limitation and limitation itself only remains in the question. Admittedly, he worked as casual labour and there appears to be no reason why his assertion be not admitted in the absence of any proof ~~contrary~~ where~~as~~ he filed copy of labour card in his support which duly supports his contention. The claim of the applicant No. 5 that he was casual labour has not been successfully refuted and he is entitled to the relief claimed by him that his name was to be included in the list. ~~for~~ His claim could not be said to be barred by time accordingly.

The application is dismissed, so far as the applicants Nos. 1 to 4 are concerned but is allowed so far applicant No. 5 is concerned and the respondents are directed to consider the name of applicant No. 5 also in the list which to be prepared for the casual labour for their employment in future and his seniority may also be given effect to. Let it be done within three months as far as possible. In the circumstances, we make no order as to costs.

  
A.M.

  
V.C.

Lucknow Dated: 4.3.91.