

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

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Original Application No. 261 of 1990

this the 04th day of Nov. 1996.

HON'BLE MR V.K. SETH, ADMN. MEMBER
HON'BLE MR D.C. VERMA, JUDICIAL MEMBER

Sudhakar Tewari, aged about 40 years, S/o Sri Shanker
Dayal Tewari, R/o Gram Subhash Nagar, Post Subhash Nagar,
District Nanital.

Applicant

By Advocate : Sri R.K. Yadav

Versus

Union of India through the Secretary Ministry of Railways
Rail Bhawan, New Delhi.

2. The ~~Shri~~ General Manager, N.E. Railway, Gorakhpur.

3. The Chief Engineer (B.G. Construction) N.E. Railway,
Gorakhpur.

4. The P.W.I. (Construction) Badshah Nagar, Lucknow.

Respondents

By Advocate : None

O R D E R

D.C. VERMA, MEMBER(J)

By this O.A., the applicant has claimed appointment
to the post of Casual Labour. The applicant claims to
have worked as Casual Labour from 1976 till 16.9.1980
on which date he was retrenched from service. Now,
the applicant has claimed appointment to the said post



and backwages since September, 1980 till the date of actual retrenchment.

2. The applicant has claimed that he had already acquired the status of permanent employee as he had completed more than 240 days regular service. The applicant's retrenchment, it has been urged, is violative of principle of natural justice.

3. We have heard the learned counsel for the applicant and as none has appeared on behalf of the respondents, we have ourselves perused the recital of the Counter affidavit and the other documents on record.

4. On behalf of the respondents the claim of the applicant has been resisted on the ground of limitation and also on the ground that about 20,000 Casual Labourers were retrenched due to greatly reduced work. Some of the retrenched Casual Labourers filed cases but they failed to succeed. However, the Hon'ble Supreme Court in S.L.P. Prahlad Singh & others Vs. Union of India & others and Indrapal Yadav & others Vs. Union of India & others (W.P. No. 147320/59 of 1983 to issued directions to give relief/such retrenched employees who fulfil conditions laid down therein. The Railway Board, therefore, formulated a scheme and issued the order. The case of the respondents is, as stated in that para 5 of the Counter affidavit, the applicant had left the job on his own accord and had not



turned-up on duty w.e.f. 16.8.1980 and the name of the applicant was not on the live register. In the circumstances, the applicant dis-entitled himself from the benefit of Casual Service under the rules framed by the Railway Board.

5. In the Rejoinder affidavit, the applicant has denied that he left the job on his own accord and alleged that infact the work was not taken from him.

6. After the hearing the learned counsel for the applicant, we are of the view that the applicant has no case on merit and also due to lapse of period of limitation.

7. Admittedly, the applicant was retrenched on 15.9.1980 and he is not in job since then. The applicant should have made grievance to the proper authority and in the appropriate judicial forum within the limitation period at that time, but the applicant failed to do so. Under section 21 (2) of the Administrative Tribunals Act 1985 where the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates, is not entertainable by the Tribunal. The Administrative Tribunals Act 1985 came into force on 1st November, 1985. The cause of action arose to the applicant in Setember, 1980 i.e. more than 3 years prior to coming into force of the Administrative Tribunals Act 1985. The present

petition is not entertainable in view of the said provision.

8. In the case of Secretary to Govt. of India & others Vs. Shivram Mahadu Gaikwad (1995) 30 A.T.C. 635, the Hon'ble Supreme Court was dealing with similar case where the respondent was discharged from service on 7.10.1986 and did not turn-up thereafter on the ground of illness and filed the O.A. before the Tribunal in 1990. In that case also, the respondent claimed to be a workman under the Industrial Disputes Act 1947. The apex court turned down the claim of the respondent on the ground of limitation.

9. In the case before us also, there is no application for condonation of delay and the applicant while filing the O.A. claimed it within the period of limitation without giving any explanation and reason for delay in filing the O.A.

10. In the above circumstances, as the order disengaging the applicant from service w.e.f. 16.9.1980 was not challenged within the time, the O.A. is not maintainable. Besides this, O.A. lacks merit because the name of the applicant is not registered in the Oliver register and he had on his own accord left the job and further as the applicant does not fulfil the conditions laid down in the Railway Board's scheme.

11. The O.A., therefore, lacks merit and is liable to be dismissed and is dismissed. Costs on the parties.