

**CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH**

Original Application No.556/2005
This the 11th day of May 2007

HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

Jamshad Khan, aged about 46 years S/o Sri Shamsher Khan, R/o Umrauli, Post Office-Maholiya Sheopal, District-Hardoi.

...Applicant.

By Advocate: Shri R.K.Awasthi.

Versus.

1. Union of India through the Divisional Railway Manager, Moradabad.
2. The Rail Path Niriskhak, Uttar Railway, Balamau, Hardoi.

By Advocate: Shri S. Verma.

ORDER

BY HON'BLE MR. M. KANTHAIAH, MEMBER JUDICIAL.

The applicant has filed this Original application to issue direction to the respondents to enter the name of the applicant in the live casual labour register as laid down in Circular Dt. 20.04.1987 and also to consider his case for regular appointment on the ground that he worked as causal Gangman under 2nd Respondent for the period from 15.05.1978 to 14.07.1978 and 16.08.1978 to 14.10.1978.

2. The respondents have filed Counter Affidavit disputing that the applicant ever worked as casual Gangman as contented by him and thus denied the claim of the applicant either for entering his name in the live casual labour register or for regular appointment as prayed by the applicant.

2

3. The applicant has filed Rejoinder Affidavit reiterating his pleas in the Original application.
4. Heard both sides.
5. The point for consideration is whether the applicant is entitled for the relief as prayed for.
6. It is the case of the applicant that he worked as causal gagman under 2nd Respondent from 15.05.1978 to 14.07.1978 and 16.08.1978 to 14.10.1978 and thereafter his services were not utilized. He also made several representations and got issued legal notice to include his name in the live casual labour register and further contents that his claim is based on the Circular Dt. 20.04.1987 (Annexure-1) issued by the officer of the Divisional Railway Manager, Moradabad. The applicant has also filed M.A.No.2990/2005 to condone the delay in filing OA on the ground that he came to know the circular (Annexure-1) recently before making representations.
7. The respondents have denied the contention of the applicant, that he worked as casual labour in the office of respondents and further disputed the genuineness of record of service as casual labour (Annexure-2).
8. In such circumstances, it is the duty of the applicant to substantiate his basic stand that he worked in the office of 2nd Respondent from 15.05.1978 to 14.07.1978 and 16.08.1978 to 14.10.1978. Admittedly, Annexure-2 does not contain the date on which it was issued and also nature of assignment was shown as blank. The respondents also further contends that the Permanent Way Inspector under whose signature, it was issued was not posted in Balamau in the year 1978.
9. But to controvert the pleas taken by the respondents and also to substantiate his contention that Annexure-2 is a

genuine, no additional material produced by the applicant. Further, if there is any truth in the version of the applicant, he would not keep quite till 2005 without making any representation to the respondent department. In such circumstances, giving much importance or relying on Annexure-2 is not at all reasonable and justified.

10. The applicant mainly relied on Annexure-1 Circular Dt. 20.04.1987 to include his name in the live casual labour register on the ground that he worked as casual labour during the year 1978. No doubt the recitals of Annexure-1 Circular, discloses maintenance of live casual labour register, inclusion of the names of casual labour who worked prior to 01.01.1981 and also preparation of seniority list as on 30.04.1987. But admittedly there was no representation from the applicant at any time either in the year 1987 or subsequently. As per the version of the applicant, he made representation in Oct 2004 that is after more than 17 years and after lapse of such a long period tracing or retaining of any such record is beyond the scope of the department.

11. The applicant who want to claim relief for entering his name in the live casual labour register and thereafter to consider for regular appointment basing on the ground that he worked as casual labour or Gangman during the year 1978 is clearly barred by limitation. Further the reasons given for condonation of delay that he came to know the Circular Dt. 20.04.1987 recently or making any representations subsequently in the year 2004 is not at all a justified and reasonable grounds to condone the delay in filing the original application.



12. In view of the above circumstances, the applicant has not made out any claim either to enter his name in the live casual labour register or to consider for regular appointment and further his claim is also barred by limitation and thus, it is liable for dismissal.

In the result, OA is dismissed. No costs.


(M. KANTHAIAH)
MEMBER (J)

11-05-2007

/amit/