

Central Administrative Tribunal
Lucknow Bench Lucknow
Original Application No.106/2006
This, the 31st day of March 2009

HON'BLE MR. M. KANTHAIAH, MEMBER (J)

1. Shri Kishan Son of Shri Ram Dularey Resident of Village Sahpur Majhgawan, Post Chandrawat, District Lucknow.
2. Hanuman Prasad son of Shri Mata Prasad Resident of Village Rampur, Post Rampur Magam, District Faizabad.
3. Hridyesh Kumar Son of Shri Bihari Lal Resident of Village Rai Singh Khera, Post Maati, Lucknow.
4. Ram Chander Son of Shri Chottey Lal Resident of H.No.470/66, Gopalpuri, Alambagh, Lucknow.
5. Bachan Singh Son of Shri Radhey Lal Resident of H.No.I-13 M, Barha Railway Colony, Alambagh, Lucknow.
6. Bhola Ram Son of Shri Buddha Prasad Resident of I-13 L, Barha Railway Colony, Alambagh, Lucknow.
7. Shatrughan Son of Shri Ram Harsh Resident of Gopalpur, Near Singhal Marble, Alambagh, Lucknow.
8. Rameshwar Son of Shri Pujan Resident of Haider Canal, Charbagh, Lucknow.
9. Devki Nandan Son of Shri Kailash Chand Resident of Village Walagaon, Post Baba Ki Mazar, District Faizabad.
10. Ram Tej Son of Shri Ram Dhuaj Resident of Village Panhi, Post Taryataa Kala, District Barabanki.

Applicant.

By Advocate:- Shri P.K. Shakeya for Shri R.K. Upadhayay.

Versus.

1. Union of India through General Manger, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Divisional Office, Hazratganj, New Lucknow.

... Respondents.

By Advocate:- Shri B.B. Tripathi for Shri N.K. Agrawal.

ORDER

BY MR. M. KANTHAIAH, MEMBER (J)

The applicant nos.1 to 10 have filed the OA with a prayer to issue direction to the Respondent No.1 to grant approval for reengagement of the applicants and upon which, the Respondent No.2. been regularized the services of the applicants in Group-'D' services stating that they have worked as casual laborers under Respondent No.2 for more than 120 days and as such they are entitled for temporary status and reengagement and further, stated that similar situated persons have been regularized by the respondents in 2005.

2. The respondents have filed Counter Affidavit, denying the claim of the applicant stating that there are no merits in the claim of the applicants and also on the ground of limitation.

3. Heard.

4. The point for consideration is whether the applicants are entitled for the relief as prayed for.

5. It is the case of the applicants that they have worked as casual laborers under Respondent No.2 for more than 120 days in the year 1998 but because of brake for more than 2 years in their reengagement they made representations to the Respondent No.1 through Respondent No.2 for approval. Ann-A-1 is the copy of letter dt. 16.12.1998 and by means of letter dt. 27.6.2002, the Respondent No.1 called for details. The applicants have filed representation dt. 31.7.2002 (Ann.-A-3) , which is submitted to Respondent No.1 by

Respondent No.2 in respect of representation of the President of SC/ST Association of Lucknow Division in respect of their claim for consideration of their reengagement and regularization on the ground that they have worked some time in the division and peoples, who have not worked in the division have been engaged as Safaiwalas from MB division as well as appointed from open market as Safaiwalas but the same is not relating to the applicants. It is also the case of the applicants that in the year 2005 some of the persons, who have not even worked for single day have accorded approval to work as casual laborers and substitutes in Lucknow division and as such, they are also entitled for the relief as prayed for.

6. While advancing arguments, the learned counsel for the applicants relied on the decision of Allahabad High Court rendered in the case of ***Union of India and Another Vs. Central Administrative Tribunal, Allahabad and Another reported in [2007 (3) ESC 1701 (All) (DB)]***, which reads as under:-

"Regularization-Casual labour-Engaged in Central Railway-As per railway rules the employees who have worked for more than 120 days, acquire temporary status-It is evident from fact that respondent No.2 worked in various spells, hence cannot be said to have worked continuously for 120 days-Dose not acquire temporary status-However railway administration maintain a Live Casual Labour Register where the name of casual labours are entered and kept in order of seniority based on the number of days of work-Name of respondent No.2 to be entered in Live Casual Register as appropriate place and in case other incumbent considered for regular appointment, respondent No.2 may be considered accordingly."

7. Before going into the merits of the case, it is the main objection of the respondents that the claim of the applicants is barred by limitation and as such, finding is required on this aspect before touching merits of the case. It is the case of the applicants that they

have worked more than 120 days prior to 1998 and they have also made representations to the respondent authorities for approval of Respondent No.1 since there was brake of more than 2 years in their engagement. The applicants have not filed copy of their representations but filed the copy of letter dt. 16.12.1998 (Ann.-A-1) addressed by Respondent No.2 to the Respondent No.1 in respect of the representation of the President of SC/ST Association of Lucknow Division in respect of 31 casual laborers, who are the parties in O.A.No.227/1998 and 25 casual laborers, who are parties in O.A.No.229/1991 for their regularization. Except this letter and also other correspondence between Respondent No.1 and 2 dt. 31.7.2002 relating to the representation of the President of SC/ST Association of Lucknow Division the applications have not filed any documents either in respect of their representation or in respect of their working details as casual laborers. They have filed this O.A.No.22.2.2006 i.e. after more than 7 years. The limitation provided under Section -20 (2) (b) of Administrative Tribunal Act, 1985 reads as under:-

"Section 20. Application not to be admitted unless other remedies exhausted.- (1) A Tribunal shall not ordinarily admit an application unless it is satisfied that the applicant had availed of all the remedies available to him under the relevant service rules as to redressal of grievances.

(2). For the purposes of sub-section (1), a person shall be deemed to have availed of all the remedies available to him under the relevant service rules as to redressal of grievances,-

(a). if a final order has been made by Government or other under such rules, rejecting any appeal preferred or representation made by such person in connection with the grievances; or

(b). where no final order has been made by the Government or other authority or officer or other person competent to pass such order with regard to the appeal preferred or representation made by such person, if a period of six months from the date on which such appeal was preferred or representation was made has expired."

8. But in the instant case the applicants have filed this OA after more than 7 years, which is not maintainable and as such, the OA is liable for dismissal on the ground of limitation.

In the result, OA is dismissed. No costs.


(M. KANTHAIYAH)
MEMBER-J

31-03-2019

Amit/-