

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

Lucknow this the 02 day of Sept., 98.

O.A. No.397 of 1992

HON.MR. D.C. VERMA, MEMBER(J)

1. Pawan Kumar son of Mata Deen yadav.
2. Vakeel Singh son of Ram Ashish Singh.
3. Raja Ram son of bheekha.
4. Ram Kripal Yadav son of Ram Sevak.
5. Munnu Singh son of Baldev.
6. Om Prakash son of Algoo
7. Ramesh Kumar Singh son of Nayau Prasad.
8. Ram Singh son of Nand Lal.
9. Harishchandra Singh son of Raj Kishore Singh
10. Ram Kewal son of Laxman.
11. Jwala prasad son of Gajodhar.
12. Amresh Kumar son of Day aRam.
13. Raj Kumar Yadav son of Mata Deen Yadav.
14. Samar Bahadur son of Ram Pher.
15. Des Raj son of Bahadur Singh.
16. Vikram Singh son of Chottan Singh.
17. Suresh Kumar son of Ram Adhar.
18. Ganga Ram son of Lalta Prasad.
19. Shatrohan son of Vishnu Nath.
20. Shiv Prasad son of Chhabboo Lal.
21. Hari Govind son of Kesheo Prasad.

All worked as Casual labour under Inspector of Works
(Lines), Northern Railway, Lucknow.

Applicants.

By Advocate Shri Ajmal Khan.

versus

1. Union of India through Secretary Ministry of Railways,
Rail Bhawan, New Delhi.
2. General Manager(P), Northern Railway, Baroda House, New
Delhi.
3. Divisional Railway Manager, Northern Railway, Hazratganj,
Lucknow.



4. Senior Divisional personnel Officer (N.R.) Divisional office, Hazratganj, Lucknow.

5. Inspector of Works (Lines) Northern Railway Charbagh, Lucknow.

Respondents.

By Advocate Shri S. Verma.

ORDER

By this O.A., 21 applicants, who claim to have worked as casual labour under Inspector of Works (Lines), Northern Railway Lucknow have sought relief that the respondents be directed to hold the screening test for empanelment of their names and to re-engage the applicants. As per the applicants' case, all the applicants have worked for more than 120 days as casual labour but were never screened for empanelment, nor their names were brought in the live casual labour register. Though the juniors were re-engaged, the applicants were not given job. In support of their working period, the applicants have filed the casual labour card Anneuxre A-1 to A-21 with the O.A. The respondents' case is that none of the applicants were ever engaged or worked as casual labour under Inspector of Works(Lines), Northern Railway, Lucknow(respondent No. 5) or under any other respondents. The question of completion of 120 days continuous working by the applicant has also been denied by the respondents. It has also been denied that the applicants are entitled to temporary status or were ever given temporary status. They were never screened by the Screening committee. The O.A., according to the respondents, is barred by limitation also because as per their own saying the applicants were not engaged after 1977 and 1981.

2. Heard the learned counsel for the parties and perused the pleadings on record. Except for the copies of the so called casual labour register, the genuineness of which has been challenged by the respondents, no other document has been filed by the applicant. A perusal of the copies of the casual labour card shows that some of the applicants were not engaged even after 1976. One applicant, namely Ram Kewat (applicant No. 10)




was last engaged in May, 1972 only. Similarly, the applicant Hargovind (applicant No. 21) was last engaged in August, 1975. The period of last engagement of other applicants is between 1976 to 1980, as per the documents filed with the O.A. If the juniors to the applicant were engaged, the applicants had grievance to challenge the juniors' engagement and to claim priority for engagement on the date when the juniors were engaged. The submission of the learned counsel for the respondents is that the screening was done in the year 1975 to 1990 and also in the year 1991 and 1992 where the applicants were not called for screening. Still none of the applicants made any representation challenging non-inclusion of their names in the panel of the earlier years. The submission of the learned counsel for the respondents is that the present O.A. is therefore, barred by limitation.

3. The learned counsel for the applicant has submitted that the screening was done in the year 1992 wherein the applicants were not called and so the present O.A. has been filed in 1992.

4. There is specific recital in the counter affidavit that the screening was done between 1975 to 1990 and also in the year 1991 and 1992. There is no specific denial to this in the Rejoinder. If the screening was done in the earlier years and the applicants were not called for screening, the applicants had grievance to challenge the same. As the applicants failed to challenge the same within the prescribed period, the applicants cannot be allowed to challenge their non screening in the year 1992. The O.A. is, therefore, barred by limitation.

5. An attempt was made by the applicants for ^{summoning} screening of the muster roll and paid vouchers in respect of the applicant to verify about the work. The respondents, however, in the counter affidavit stated that as per the Railway Board circular the period of preservation of 'paid vouchers', 'muster rolls' is only ^{five} ~~four~~ years. The record relating to the years, the applicants have claimed working, is not available at the belated stage i.e. 13 to 20 years after their alleged date of engagement. The



learned counsel for the respondents has also pointed out that the so called casual labour cards, copies of which have been annexed as Annexures 1 to 21 are not genuine. The respondents' case on this point is contained in para 6(b) of the counter affidavit which is as below:

"The photostat copies of the so called 'Casual Labour Cards' annexed as Annexure No. A-1 to A-21 to the application, do not appear to be genuine, but appear to be forged, as (i) all the so called cards have been prepared in a single sitting in the handwriting of a same person, (ii) in none of the so called 'Casual Labour Cards', period between which the 'Casual Labour' is said to have worked, is mentioned (though, the number of sanction and its date together with the number of working, days is mentioned), (iii) column 5 of each of the so called 'Casual Labour Card' is left unsigned and undated; there is no mention of the designation of the supervisor under which the 'Casual Labour' is said to have worked, (iv) the illegible signatures of the Inspector of works, Northern Railway, Lucknow, bear no date in some of the so called 'Casual Labour Cards', which are at the end of entries; ~~in some of the 'Casual Labour Cards', which are at the end of entries,~~ in some of the 'Casual Labour Cards' the entries made are countersigned by some office Clerk, while in most of them, there are no counter signatures, (v) same I.O.W. (Lines) appears to have signed 'Casual Labour Cards' of a set of the Applicants, but the signatures do not tally. There appears to be difference in angles and strokes of the signatures etc."

6. The learned counsel for the applicant/ on the other hand, submitted that the matter may be sent back to the respondents to hold an enquiry after associating the applicants and in case the genuineness of any casual labour card is established, such applicants be given benefit of engagement. In support of his contention the learned counsel for the applicant has placed reliance on the decision of this Bench of the Tribunal in O.A. No. 618/92 Bhailal and others vs. Union of India and others.

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7. After hearing the parties, I find that the decision of the Bhailal (supra) extends no benefit to the applicants of the present case. In the case of Bhailal working of some of the applicants was admitted by the respondents, but there were several other documents, genuineness of which was not accepted by the respondents. So, out of 34 applicants, the cases of 4 applicants were sent back to the respondents to examine properly. In the present case, the respondents have not admitted the working ^{of} any of the 21 applicants. Besides that, claim of some of the applicant has been preferred, in some cases after one decade and in some other cases after two decades and the O.A. has been found barred by limitation. Therefore, referring the matter for enquiry by the respondents would not serve any purpose.

8. In view of the above, the present O.A. has no merit and is barred by limitation. It is however, made clear that the claim of the applicants for engagement as a fresh case for any future vacancy would not be barred unless the applicants are found not suitable to any such job. The O.A. is decided accordingly. Costs easy.



MEMBER(J)

Lucknow; Dated: 0 29/98

Shakeel/