

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PATNA BENCH, PATNA.**

O.A. No. 397 of 2005

Date of order : 23-5-06

C O R A M

Hon'ble Ms. Sadhna Srivastava, Member (J)

Nathun pandit, S/o Late Yogi Pandit, resident of village Dekhwaha, P.S. Barh and District – Patna.

....Applicant

By Advocate : Shri A.K. Vinayak

Vs.

1. The Union of India through its Cabinet Secretary, Government of India, New Delhi.
2. The Secretary, Ministry of Railways, Government of India, New Delhi.
3. The Zonal Manager, E.C. Railway, Head quarters at Hajipur.
4. The Divisional Railway Manager, Sonapur, Bihar.
5. The General Manager (Personnel), Hajipur, Bihar.
6. The Chief Personnel Officer, Zonal Office, Hajipur.
7. The Divisional Personnel Officer, Sonapur Division, Sonapur Bihar.

....Respondents

By Advocate : Shri R. Griyaghey

O R D E R

By Sadhna Srivastava, M (J):-

The applicant seeks regularisation/engagement on the ground that he had worked for 147 days in between



the year 1977 to 1988 as daily wager. The instant application has been filed in 2005. It is an admitted position that the applicant was not engaged since 1988.

2. On the face of above facts, the claim is highly barred by delay and laches. It is an accepted position of law that repeated representation do not extend limitation period. Therefore, the applicant's contention of having made representation from time to time is of no avail.

3. It is a trite proposition of law that the appointment to the public post is made in accordance with the statute or rules, having statutory force under the proviso to Article 309 of the Constitution. It is also not known if there is a vacancy to absorb the applicant. In case there is a vacancy, the same has to be filled up by open offer to eligible candidate on the basis of merit. It is also not known what right, if any, vest in the applicant to seek a direction from the Tribunal to the public authority. The Tribunal can only intervene as and when an infringement of a legal right is brought to its notice. It has also to be shown that there is a legal obligation on the



authority to engage or absorb the applicant in preference to others. A constitution Bench of Apex Court in the case of Secretary, State of Karnataka & ors vs. Uma Devi and ors; 2006 Supreme Today (3) SC 415 has held that the right to be regularised or made permanent in public service is to be governed by statutory rules. A daily wager has no right to claim to be made permanent in the employment. There is no fundamental right vested in those who have been employed on daily wages or temporarily to claim that they have right to be absorbed in service. The Supreme Court in the above case has held that the Courts are not expected to issue directions for person on daily wages to be made permanent. Regularisation is not a mode of recruitment. Thus, I do not find any merit in the case of the applicant.

4. Resultantly, the OA is dismissed on merit as well as on the ground of delay and laches. No order as to the costs.


[Sadhna Srivastava] M [J]

/cbs/