

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.: 588/95

Date of Decision : 15th January 2001

G.Baliram _____ Applicant.

Shri K.B.Talreja _____ Advocate for the
Applicant.

VERSUS

Union of India & Ors. _____ Respondents.

Shri V.S.Masurkar _____ Advocate for the
Respondents.

CORAM :

The Hon'ble Shri S.L.Jain, Member (J)

- (i) To be referred to the Reporter or not ? yes
(ii) Whether it needs to be circulated to other ~~or~~
Benches of the Tribunal ?
(iii) Library yes

(S.L.JAIN)
MEMBER (J)

mrj*

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH, MUMBAI

OA.NO.588/95

Dated this the 15th day of January 2001.

CORAM : Hon'ble Shri S.L.Jain, Member (J)

Shri Ganesh Baliram,
Casual Labourer,
Under Permanent Way Inspector (C),
Central Railway, PEN
R.C.F. Project,
Bombay.

...Applicant

By Advocate Shri K.B.Talreja

V/S.

1. Union of India through
The General Manager,
Central Railway,
Bombay V.T., Bombay.

2. The Divisional Railway Manager,
Central Railway,
Bombay V.T., Bombay.

...Respondents

By Advocate Shri V.S.Masurkar

O R D E R

{Per : Shri S.L.Jain, Member (J)}

This is an application under Section 19 of the Administrative Tribunals Act, 1985 seeking direction to the respondents to regularise the applicant in any of the department in Group 'D' post from the date he has acquired Temporary Status along with consequential benefits including back wages. He has further claimed the wages for the period from 11.5.1988 to 29.6.1988.

S.L.Jain

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2. The applicant has worked as Project Casual Labour on daily wages from 2.11.1981 engaged by Permanent Way Inspector (C) Pen, R.C.F. The applicant has sent through his counsel notice dated 3.2.1995 under Section 80 of the C.P.C. and filed the present OA. in the Tribunal on 21.3.1995.

3. The applicant claims that he has worked as under :-

2.11.1981 to 21.7.1982
24.9.1983 to 18.12.1983
19.12.1983 to 18.3.1984
22.3.1984 to 18.6.1984
19.10.1986 to 18.12.1987
11.5.1988 to 29.6.1988

He further claims that he is entitled for regularisation in Group 'D' post along with all consequential benefits and back wages from 11.5.1988 to 29.6.1988 for the period in which he has worked with Chief Catering Inspector at Bombay V.T. which is not paid.

4. The first defence of the respondents is that the applicant has filed this OA. before the Tribunal without exhausting the departmental remedies available to him. The learned counsel for the applicant argued that he has served notice dated 3.2.1995 on the respondents. Assuming it, that the respondents were to act upon on the notice of the applicant's

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counsel, still in my considered opinion the applicant did not choose to wait even for six months which is the period required under Section 20 (2)(b) of the Administrative Tribunals Act, 1985 for filing an OA. before this Tribunal. Thus, the OA. appears to be premature one.

5. The respondents' another defence is that the applicant has not arrayed all the officials under which he has worked. It is true that the applicant has worked under various authorities but in view of the fact that applicant has arrayed Union of India through General Manager and Divisional Railway Manager, Central Railway, Bombay V.T. and applicant claims that he has worked under officials who are subordinate to Divisional Railway Manager, Central Railway, Bombay V.T., the respondents can/or entitled to collect the datas from the subordinate offices. Hence, this objection fails.

6. The subsequent objection of the respondents is that the application does not disclose any cause of action as the applicant has not stated that any junior to him has been regularised. I find substance in this objection as on perusal of the OA., I do not find that there is any averment that any junior to the applicant has been regularised.

7. The respondents have denied this fact that applicant has worked with Chief Catering Inspector at Bombay V.T. from 11.5.1988 to 29.6.1988. As the OA. has been filed on 21.3.1995,

the relief prayed for in the application is barred by time. As the applicant claims that the application is within the limitation period prescribed under Section 21 of the Administrative Tribunals Act,1985, being aware of the point raised by the respondents, didn't file any delay condonation application.

8. There is dispute between the applicant and the respondents in respect of the period of working stated in para 3 of this order. The respondents only admit to the extent that applicant has worked from 2.11.1981 and has remained absent from 21.7.1982 unauthorisedly. The applicant has filed the Casual Labour Card before the Tribunal. In the circumstances, when OA. is premature one, for part of the relief I direct that applicant is free to agitate the matter before the respondents and thereafter, if he has any grievance he may proceed in accordance with law. The said observation is necessary one in view of 'R-1' where the respondents have admitted that the applicant has been shown at Sr.No. 9 but no basis is found.

9. The learned counsel for the respondents argued that OA. is barred by time in view of 2000 (3) ATJ 1, Mahabir and Ors. vs. Union of India & Ors. On perusal of the same, I am of the considered opinion that the point involved was in respect of the relief "to get directions to have his name placed on the live register" in other words, "whether the provisions of Railway

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Board Circular for placing his name in the LCL Register gives a continuous cause of action". On a further perusal of the said authority, I find that the concerned circular was issued by the General Manager, Northern Railway on 28.8.1987 which was based on Railway Board's decision on 25.4.1986 along with representations in terms of PS Nos. 9191 and 9195 (to be executed upto 31.3.1987). The applicant has not claimed the relief of being placed on Live Casual Labour Register Hence, the said authority does not help the respondents.

10. In the result, OA. is disposed of as partly premature and partly barred by time with no order as to costs.

S.L.JAIN
(S.L.JAIN)

MEMBER (J)

mrj.