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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

OA.1246/99

dt. 29.2.00

B. Ramakrishna Rao

: Applicant

Vs.

1. Genl. Manager
Representing Union of India
SC Rly., Railnilayam
Secunderabad 500071

2. Divnl. Railway Manager
SC Rly., Divnl. Office
Vijayawada Division
Vijayawada

: Respondents

Counsel for the applicant

: S. Ramakrishna Rao
Advocate

Counsel for the respondents

: V. Rajeswara Rao
SC for Railways

Coram

Hon. Mr. B.S. Jai Parameshwar, Member (Judl.)

J

Order

Oral order (per Hon. Mr. B.S. Jai Parameshwar, Member (Judl)).

Heard Mr. S. Ramakrishna Rao, learned counsel for the applicant and Mr. V. Rajeswara Rao, learned standing counsel for the respondents.

1. The applicant was engaged as casual labourer under Permanent Way Inspector (PWI) (Spl. Work) South Central Railway, Bapatla. He has furnished number of days he has worked as he has worked under three Casual Labour Cards as such. Under Card No.1 he has worked for 118 days between November, 1977 and May, 1978; under Card No.2 he has worked for 85 days ^{between} ~~from~~ February, 1979 and June 1979 and under Card No.3 he has worked for 961 days from April, 1980 to December, 1982. He submits that he was disengaged from January, 1983 for want of work. Further he submits that there was ban against reengagement of casual labour between 1984 and October, 1998.

2. In terms of Railway Board's letter dated 2.3.87 the applicant had submitted an application furnishing his bio data and service particulars to the Respondent No.2. He submits that the said particulars are available in the office of the 2nd respondent at Sl. No.602.

3. The applicant submits that his name was not kept in the live register and his juniors were continued in service. He submits that the Railway Board issued instructions vide letters dated 23.10.1971, 9.10.98, and 11.5.1999 to take up the case of casual laborers borne on the live register for screening for appointment as casual labourer. Accordingly, the applicant submitted a representation dated 31.10.98 requesting the respondents to keep his name in the live register. There was no response to that representation. Hence, he has filed this OA praying to direct the respondents to consider the case of the applicant to keep his name in the live register for ~~grant~~ of reengagement as casual labour with all consequential benefits.

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4. He compares his case with one Talari Danamma, Casual labour under PWI, Gudivada, wherein the Respondent No.3 directed to keep her name in live register vide order dated 31.10.1994 in OA 1162/93.

5. During the year 1987 about 4000 Ex-casual laborers of Vijayawada Division applied for absorption by keeping their names in the live register. But the Screening Committee said to have considered only 20 members without considering all other cases. Then those casual laborers had approached the Hon. Tribunal and the Tribunal gave a direction to the respondents to keep all the Ex-casual laborers in the live register and the respondents implemented the directions. He submits that those casual laborers were juniors to him.

6. The respondents have filed a reply. As per their version the applicant was engaged as casual labour on 16.4.1980 and continued to be engaged as such up to 9.5.1983 subject to availability of work as per the live register. The applicant thereafter left the casual service on his own volition and he was not available for further engagement. Accordingly in the live register against his name an endorsement was made to the effect that he left the services. The contention of the applicant that he had worked continuously during the above period is not correct.

7. The applicant had applied for inclusion of his name in the supplementary live register relying upon the Railway Board instructions dated 2.3.1987. In terms of the said letter the cases of only such laborers who had worked as ^{project} bridge casual laborers before 1.1.1981 and who were discharged for want of work or completion of ^{project} bridge work could have been included. The said conditions are not applicable to the case of the applicant. The applicant was engaged as and when there was work even beyond 1.1.1981 and up to 9.5.1983.

8. Further they submit that the application is barred by time. The cause of action arose in the year 1987 and the applicant has approached this Tribunal in 1999. The version of the applicant that he was disengaged for want of work is not correct. The applicant himself relinquished the casual service and was not available for further engagement. In those circumstances his name was deleted from the live register making endorsement "left services". They have denied the

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version of the applicant as regards casual labour ^{ers} of Vijayawada division. The respondents have furnished the extract of the live register bearing Sl.No.194 pertaining to the applicant (Annex. R.1).

9. The applicant ^{has} filed rejoinder. He denies that he himself relinquished the services. The endorsement made in the live register is false. He was not ~~bridge~~ ^{a project} casual labour. Further records may be summoned from the respondents as regards entering his name at Sl.No.602. He also furnished synopsis of the services and other particulars.

10. From the material placed on record it is ~~not~~ established that the applicant was engaged as ^a casual labourer. In the application the applicant attempted to make out a case that his services were disengaged from January, 1983 whereas in the reply the respondents further state that because of his earlier casual service the applicant's name was entered in the live register and that he was reengaged from ^{their} 16.4.1980 and continued up to 9.5.1983. It is ^{therefore} the version that thereafter the applicant himself relinquished casual service.

11. The applicant disputed the said facts. The Railway Board's instructions given in the year 1987 relates to ~~Bridge~~ ^{project Casual} laborers who ^{were engaged} had entered as on 1.1.1981 and who were disengaged for want of work or completion of ^{project} bridge work. Admittedly the applicant was not in ^{the} casual service under the respondents after 9.5.1983.

12. Thereafter the applicant appears to have not bothered to ascertain whether the respondents are engaging casual labaourers and what was the action taken on the live register maintained by them. It is not the case of the applicant that he was away from the place of work. It is not his case that there was no work with the respondents. The applicant submits that there was ban between 1984 and 1988. The applicant has not produced any material to support the said version. From the version given by the respondents it appears that the casual workers in the respondent organization were very much available and were engaged. When that is so the version of the respondents have to be accepted. The applicant slept over his right without approaching the authorities right from 5.9.1983. He has not ^{9.5.} ^{to ascertain} made efforts from the authorities whether there was work to be carried out by

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casual laborers or whether they were engaging casual laborers on the basis of the live register and if so why they have not engaged him as casual labourer. He was fully aware that his name was entered in the live register on the basis of his earlier casual service. When that is so, he should have ascertained whether any of his juniors were continued in the casual service and approach ^{ed} the judicial forum for reengagement.

13. After a lapse of nearly 16 years the applicant has approached this Tribunal. As contended by the respondents there is laches on the part of the applicant. The applicant now attempts to make out a case that the endorsement made as " left service " in the live register against his name in Annexure R-1 is false endorsement. This Tribunal cannot make enquiries at this distance of time. The application is liable to be dismissed on the ground of laches. However, I make it clear that this order shall not come in the way of the respondents to ascertain the genuineness or otherwise of the endorsement in the live register ^[Ann R-1] and also to ascertain whether his name is available at SL No. 602 in the live register maintained by the office of the Respondent No. 2 and to reengage him provided there is work and need for such engagement.

14. Hence, I pass the following order:

- a) The applicant is not entitled to the relief on the ground of delay and laches.
- b) This order does not come in the way of the respondents to consider the case of the applicant for reengagement if there is work and need for such

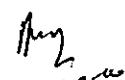
engagement in view of the observations made in the body of the order.

15. With the above directions the OA is disposed of. No order as to costs.


 (B.S. Jai Parameshwar) 29.2.00
 Member(Judl)

Dated: 29.2.00

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD

1ST AND 2ND COURT

COPY TO:

1. HON. J
2. HRRN M (ADMN.)
3. HBSJP M (JUDL.)
4. D.R. A(ADMN.)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY

THE HON'BLE MR. JUSTICE D.H.NASIR
VICE CHAIRMAN

THE HON'BLE MR.R.RANGARAJAN
MEMBER (ADMN.)

THE HON'BLE MR.S.S.JAI PARAMESWAR
MEMBER (JUDL.)

* * *

DATE OF ORDER: 29/2/2000

MA/RA/CP.NO.

IN

DA. NO. 1246/09

COMMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

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