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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH: JAIPUR.

O.A.NO.42/1993

Date of order:13.5.97.

Kailash Chand son of Shri Ram Dhan, resident of Village Hirnoti, Tehsil Pajgarh, District Alwar. Formerly worked as Casual Labour under I.O.W.(Western Railway), Alwar, Western Railway, Jaipur Division.

: Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Bombay.
2. Divisional Railway Manager, Western Railway, Jaipur.

Respondents.

None present for the applicant

Mr. M.K.Pawat, Sr. Clerk, departmental representative for respondents.

CORAM:

HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

PER HON'BLE SHRI RATAN PRAKASH, MEMBER (JUDICIAL)

The applicant herein, Shri Kailash Chand has approached this Tribunal under Section 19 of the Administrative Tribunal's Act, 1985 to seek a direction against the respondents that he should be engaged as a Casual Labour in the services of the respondents and to count his seniority as Casual Labour from the date of his initial appointment.

2. Facts as stated by the applicant in brief are that he was initially engaged as Casual Labour on 22.6.1970 and continued to work till 31.3.1971 and thus he worked for more than 180 days and has to be conferred temporary status. It is further the case of the applicant that he was again engaged on 6.4.1971 and for different spells of period was engaged till 30.3.1973 and accordingly he worked with the respondents for a total of 889 days as detailed in Annexure A/2 issued by the IOW (W.R.), Alwar.

3. It is the grievance of the applicant that after 30.3.1973 although there were vacancies available with the respondents, but he was not called and fresh persons have

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been engaged. It has also been averred that a seniority list was issued by the respondents and an extract of it is being filed with Annexure A/3. (No list however was filed by applicant) It is further the case of the applicant that the respondents are violating the directions issued vide Circular dated 12.8.1991 (Annx.A/4) and have appointed one Shri Suresh in the year 1992, a junior to the applicant. Having failed to secure employment, the applicant has been constrained to file this original application with the aforesaid reliefs.

4. The respondents have opposed this application by filing a written reply. In the reply, a preliminary objection has been raised on behalf of the respondents that the application is hopelessly time barred as the applicant was lastly engaged with the respondents in the year 1973. Therefore, the OA filed by making representation dated 6.6.92 as a basis for it is highly belated and is liable to be dismissed on this ground. On facts it has been averred by the respondents that the respondents did not terminate the services of the applicant but the applicant has on its own left the services in the year 1973. It has also been stated by the respondents that as per directions of Hon'ble the Supreme Court in the case of Indra Pal Yadav, a Live Register has been maintained by the respondents but the name of the applicant does not appear in the Live Register. It has, therefore, been urged that the application deserves rejection.

5. I have gone through the pleadings of the parties and the documents relied upon on behalf of both the parties.

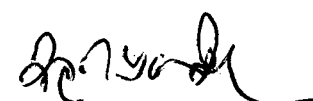
6. It may be stated at the outset that at the request of the applicant, the respondents were directed to make available the Live Register maintained of the Casual Labours engaged by them in past. On 30.10.1996 the Live Register was allowed to be seen to the learned counsel for the applicant but he did not find the name of the applicant therein. It is thus clear that the stand taken by the applicant that his services were terminated by the respondents is not substantiated by any record. The applicant has also failed to place on record any document that it was the respondents who terminated his services in the year 1973. The non-existence

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of the applicant's name in the Live Register also establishes that the applicant on his own appears to have left the services of the respondents in the year 1973. Had he been terminated by the respondents, his name would have been there in the Live Register. The directions given by the respondents in the Circular letter dated 23.9.1978 reproduced in para 5 of the OA and of circular dated 13.8.1991 (Annex.A/5) do not furnish any assistance to the applicant. Annexure A/5 is merely a direction to the D.R.M. Jaipur to recruit Casual Labours from the Live Register but since name of the applicant does not appear in the Live Register this circular dated 13.8.91 is of no help to the applicant. Another circular dated 23.9.1978 also does not confer any right on the applicant who appears to have left the services of the respondents on his own in the year 1973. It has also been held by Hon'ble the Supreme Court in the case of Ratam Chandra Sammanta & Ors. V. The Union of India and others, JT 1993 (3) (SC 418) that where there is a lapse of more than 15 years, an ^{employee} is not entitled to seek any remedy from a Court. It has further been held by Hon'ble the Supreme Court at page 420 that "delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation a person who has lost his remedy by lapse of time loses his right as well." In the instant case, the applicant appears to have left the services of the respondents on his own in the year 1973 and for the first time he made a representation to the respondents in the year 1992 and approached this Tribunal by way of this application on 13.1.1993. In other words this is a matter which is being agitated by the applicant after almost 20 years. The principle of law laid down by Hon'ble the Supreme Court in the case of Ratam Chandra Sammanta (supra) applies with full force in this case. The claim made by the applicant that his juniors have been appointed by the respondents in dis-regard of his seniority, carries no weight as the applicant has failed to substantiate that his name exists in the Live Register.

7. The O.A., therefore, fails on limitation as well as on merits which is hereby dismissed with no order as to costs.



(RATAN PRAKASH)

MEMBER (J)