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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

O.A No.164/93

Date of order: 15/12/99

1. Ganesh Kumar, S/o Shri Satya Narain, R/o Mehran ki Naoli, Chowkri Ram Chandraji, House No.1810, Jaipur, employed as Casual Labour in the Jaipur Division, W.Rly, Jaipur.

...Applicant.

Vs.

1. The Union of India through General Manager, W.Rly, Churchgate, Mumbai.

2. The Divisional Rly Manager, Western Railway, Jaipur.

...Respondents.

Mr.R.N.Mathur) - Counsel for applicant.

Mr.P.P.Mathur)

Mr.Manish Bhandari - Counsel for respondents.

CORAM:

Hon'ble Mr.S.K.Agarwal, Judicial Member

Hon'ble Mr.N.P.Nawani, Administrative Member.

PER HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER.

In this Original Application under Sec.19 of the Administrative Tribunals Act, 1985, the applicant makes a prayer to direct the respondents to engage him as Casual Labourer and to count his seniority from the date of his initial appointment.

2. The case of the applicant in brief is that he was engaged as Casual labourer on 21.12.81 and worked till 21.12.83 under IOW, Jaipur. Thereafter, he was transferred under PWI(R) Phulera and worked continuously upto August 1985. He was also sent to Chittorgarh in March 85 on duty and a duty pass was also issued to him. But abruptly the services of the applicant were terminated by verbal orders to accommodate the casual labourer of Rajkot Division. It is stated that the name of the applicant is also mentioned in the seniority list prepared by respondent No.2 on 7.5.91. It is also stated that the General Secretary, Western Railway Union had raised the grievances of the casual labourers and the respondents have engaged many persons junior to the applicant and has violated the provisions given in circular dated 23.8.78. Therefore, the applicant files this O.A for the relief as mentioned above.

3. Reply was filed. It is stated that the applicant did not work continuously but he had worked periodically. His services were never terminated as applicant himself had left the service. Therefore, the question of violation of the provisions given in Sec.25-G & H of the Industrial Disputes Act, does not arise. It is also stated that the applicant did not challenge the termination, therefore, he cannot challenge the same at this belated stage. It is further stated that in Inderpal Yadav's case, the Railway Board was given direction to frame a policy with regard to casual labourers. Thereafter immediately a Casual

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Labourer Live Register was started by inserting the names of the employees who had worked in previous years. The applicant had not given his details within the period stipulated, as per the policy/direction/guidelines issued by the Supreme Court, therefore he cannot blame the respondents now after so many years. It is also stated that this O.A. filed by the applicant is grossly barred by limitation and the applicant has no case on merit as the applicant cannot be engaged now as casual labourer as there is a long list of such employees whose name appeared in the Live Register.

4. Heard the learned counsel for the parties and also perused the whole record.

5. The learned counsel for the applicant during the course of arguments has stated that in this O.A. the applicant seeks only one relief, i.e. his name should be allowed to appear in the Live Register. The learned counsel for the respondents on the other hand objected to this prayer on the ground that the prayer is hopelessly barred by limitation.

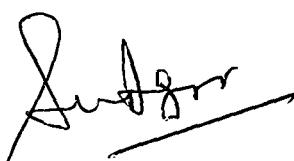
6. The philosophy behind the maintenance of Live Register is that people should normally be re-engaged who had once been engaged and whose record of service is maintained in a Live Labour Register. Once casual labourers are engaged and they work for a certain minimum period, they have to be considered for the purpose of temporary status. Thereafter they may be considered for further absorption in Class-IV vacancies. This entire philosophy is summed up in the Railway Board's Circular letter dated 23.3.90 which is reproduced below:

"18. Live Labour Register.

In order to ensure that all casual labour who have worked earlier, are re-engaged when there are vacancies, a Live Register should be maintained by each recruiting unit in the proforma prescribed in Railway Board's letter No.F(NG) II/89/CL/1, dated 23.2.90, Bahri's 41/90. This register should be kept up-to-date and all entries at the time of re-engagement and discharge, reference to pay bill, and GM's approval, etc. shall be made promptly.

As there is an absolute ban on the engagement of 'fresh faces' as casual labour, save and except where the prior personal approval of the General Manager has been obtained. It follows that any person who is not on the 'live register' of casual labour cannot be engaged as casual labour without the prior approval of the General Manager. Any official who engaged 'fresh faces' or engages any person not on the live register, without the prior sanction of the General Manager, should be severely dealt with.

Even when casual labour working regularly get absorbed against vacancies arising from time to time or against new posts and additional casual labour are required to be taken from the live register to take place of the former, the personal and prior approval of the General Manager should be taken indicating the number to be taken from the live register. This is considered essential in order to contain the casual labour strength in view of the post for decasualisation sanctioned on a large scale in the recent past and reduction required to be made in gang strength due to machine maintenance, track modernisation, etc. This requirement will apply even in those cases where additional casual labour are



required for emergencies like restoration of breaches, etc."

7. Admittedly the applicant did not give his details of service within the period stipulated as per the guidelines issued by the Hon'ble Supreme Court after Inderpal Yadav's case. Therefore, his name did not appear in the Live Register.

8. It is also an admitted fact that the applicant filed this O.A in the year 1993 whereas he was last engaged in the year 1985. It also appears that the applicant never represented for redressal of his grievance before 6.6.92 as is evident from Anxx.A1. In Bhoop Singh Vs. UOI, AIR 1992 SC 1414, it was held by the Apex Court that it is expected of a govt servant to approach the Court/Tribunal for the relief he seeks within a reasonable period. This is necessary to avoid dislocating the administrative set-up. The main purpose of limitation provided under Sec.21 of the Administrative Tribunals Act is the Govt servant who has legitimate claim should immediately agitated for the same against the adverse order against him and on getting the final order or within a period of one year after the lapse of 6 months from the date of representation to which no reply has been received, he must approach the Tribunal for redressal of his grievance.

9. As per the provisions of Sec.21 of the Administrative Tribunals Act, applicant should have approached the Tribunal within one year from the date on which the cause of action arose or after 6 months when his representation is not replied. But the applicant in this case has approached this Tribunal after lapse of more than 8 years. No reasonable explanation has been given for such unreasonable delay. Therefore, we are of the considered opinion that this application is hopelessly barred by limitation. Even on merits also, the applicant has no case. Therefore, the applicant is not entitled to any relief sought for.

10. We, therefore dismiss this O.A with no order as to costs.


(N.P. Nawani)

Member (A)


(S.K. Agarwal)
Member (J).