

(121)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
JAIPUR BENCH, JAIPUR

O.A. No. 160/95 199  
T.A. No.

DATE OF DECISION 14.5.1998

Mahendra Singh & Ors. Petitioner

Mr. Shiv Kumar Advocate for the Petitioner (s)

Versus

Union of India and others Respondent

Mr. Manish Bhandari Advocate for the Respondent (s)

**CORAM :**

**The Hon'ble Mr. Ratan Prakash, Judicial Member**

**The Hon'ble Mr.**

- ✓ 1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
- ✓ 2. To be referred to the Reporter or not? *Yes*
- ✓ 3. Whether their Lordships wish to see the fair copy of the Judgement? *Yes*
4. Whether it needs to be circulated to other Benches of the Tribunal?

*Ratan Prakash*  
(Ratan Prakash)  
Judicial Member

(1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: JAIPUR BENCH: JAIPUR.

O.A. NO.160/1995

Date of order: 14.5.98

1. Mahendra Singh S/o Shri Megh Singh, aged about 30 years, R/o Railway Workshop Colony, Qtr. No.8/C, Kota Junction.
2. Shanti Lal S/o Shri Shyama, aged about 32 years, R/o Punam Colony, Railway T A Centre, Kota Junction.
3. Vinod Kumar S/o Shri Hem Raj, aged about 31 years, resident of Workshop Colony, Qtr. No.29/E Kota Junction.
4. Om Prakash S/o Shri Gula Chand, aged about 28 years, R/o Bapu Colony, Near Shiv Mandir, Rangpur Road, Kota Junction.
5. Bhagwan Swaroop S/o Shri Gopaji, aged about 34 years, R/o Bapu Colony, Near Shiv Mandir, Rangpur Road, Kota Junction.
6. Satish Kumar S/o Shri Ashoke Lal, aged about 33 years, R/o Adarsh Colony, Gali No.3. Dadwara Kota Junction.
7. Mahesh Chandra S/o Shri Hari Lal, aged about 30 years, R/o J.P. Colony, Near Gopal Mill, Kota Junction.
8. Shant Ram S/o Shri Saru Tukha Ram, aged about 31 years, R/o Nehru Nagar, Railway Gate, Kota Junction.
9. Sudarshan S/o Shri Kripa Ram, aged about 32 years, R/o Punam Colony, Kota Junction.
10. Raghuveer Singh S/o Shri Shankar Singh, R/o Railway Workshop Colony, Kota Junction.
11. Beni Madho S/o Shri Dgibttalji, aged about 30 years, R/o Maharishi Dayanand Vedia Vidyalaya Near Mehru Nagar, Kota Junction.
12. Devendra Kumar S/o Shri Gopi Lal, aged about 30 years, R/o Railway Workshop Colony, Qtr. No. 169/A, Kota Junction.
13. Sagar Babu S/o Shri Ram Prasad, aged about 32 years, R/o Railway Workshop Colony, Qtr. No.120/A, Kota Junction.
14. Achhay Lal S/o Shri Somnath, aged about 31 years, R/o Railway Colony, Kota Junction.
15. Mahesh Chand S/o Sh. Moti Lal, aged about 33 years, R/o Workshop Colony, Kota.
16. Ram Prakash S/o Shri Ram Ajore, aged about 30 years, R/o Qtr. No.397/8, Workshop Colony, Kota Junction.

Last employed on the post of Khallasi under C.W.M. (at that time CME) Kota Workshop, Western Railway.

: Applicants

Versus

1. Union of India through General Manager, Western Railway,

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Churchgate, Bombay.

2. The Assistant Workshop Manager, Western Railway, Kota Division, Kota.
3. Assistant Chief Mechanical Engineer, Western Railway, Kota Division, Kota.

: Respondents

Mr. Shiv Kumar, counsel for the applicants  
Mr. Manish Bhandari, counsel for the respondents

CORAM:

HON'BLE SHRI PATAN PRAKASH, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI PATAN PRAKASH, MEMBER (JUDICIAL))  
Mahendra Singh and 15 others have approached this Tribunal under Section 19 of the Administrative Tribunals Act, 1985, to seek a direction against the respondents to provide them appointments on the post according to their eligibility and merit position on the panel on Group 'D' post with all consequential benefits.

2. Facts relevant for disposal of this application, as alleged by the applicants in brief are that consequent upon the Railway Board circular dated 5.12.1981 (Annx.A/1) they applied for appointment as Casual Labour with the respondent department and after being screened they were found suitable for appointment. According to the applicants, a panel, therefore, was prepared in the year 1982 and out of the 209 candidates only 172 candidates were given appointment in the year 1984. The applicants were also given appointment as Casual Labours for the periods mentioned as under:-

Sl.No.	Name	Apptt. period
1.	Mahendra Singh	16 days
2.	Shanti Lal	30 days
3.	Satish Kumar	34 days
4.	Beni Madho	34 days
5.	Om Prakash	34 days
6.	Vinod Kumar	34 days
7.	Bhagwan Swaroop	34 days
8.	Shanta Ram	33 days

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9.	Raghuveer Singh	31 days
10.	Sudharshan	34 days
11.	Devendra Kumar	34 days
12.	Mahesh Chandra	34 days
13.	Sagar Babu	34 days
14.	Ram Prakash	36 days
15.	Achhey Lal	32 days
16.	Mahesh Chand (142)	36 days.

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It is the grievance of the applicants that out of the above 172 Casual Labourers, 37 Casual Labourers were removed and the rest were allowed to continue and are still working as is evidenced by Annexure A/2. Applicants and 21 other Casual Labourers were, however, removed and disallowed by the verbal orders after completion of the period mentioned in the appointment orders as aforesaid. It is claimed by the applicants that the respondents have freshly engaged some persons after retrenchment of the applicants as detailed in para 5.6 of the OA. Aggrieved, the applicants except applicant No.16 i.e. Ram Prakash have filed an earlier OA No. 1139/92 Mahendra Singh and others Vs. Union of India and others in the Tribunal which was withdrawn with a liberty to file a fresh application. It is further alleged by the applicants that as evident by Annexure A/3 dated 15.4.1994, 50 vacancies for the post of Khallasia in Kota Workshop arose and though the applicants have been screened and are on the panel, but they have not been re-engaged. Instead 30 fresh hands have been engaged on the post of Casual Labour in Kota Division, in support of which the applicants have filed a news-paper cutting dated 1.4.1994 (Annex.A/4). Finding that they have not been employed so far, they have approached this Tribunal by filing this OA to claim the aforesaid reliefs.

3. The respondents have opposed this application by filing a written reply, to which the applicants have also filed a rejoinder. The stand of the respondents has been two fold. Firstly, that the OA is highly belated and is barred by limitation. Secondly on merits, it has been urged that the position of the applicants in the said panel has been low and the respondents have continued the services of those casual labourers whose names appeared high in the panel and there was work for them. It has also been contended that the

appointment/engagement letter issued in favour of the applicants indicates the terms and conditions on which they were engaged which is Annexure R/1 and they had worked only for few days and that too only during the year 1984 as disclosed by the applicants in their OA. Regarding the employment provided by the respondents to fresh persons, it has been urged that some of them have been appointed on compassionate grounds being dependents of deceased employee and some have been given posting on their mutual transfer on their own request with a bottom seniority against 50% quota of the volunteers as disclosed in the statement as at Annx.R/2 with the reply. It has, therefore, been urged that neither the applicants have been screened, nor they have been conferred temporary status which is available only to the Railway employees on completion of 120 days of continuous service in a year. The claim, therefore, has been contested and it is insisted that the OA deserves dismissal.

4. I heard the learned counsel for the applicants as also the respondents at great length and have examined the record in great detail.

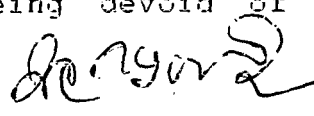
5. Regarding the preliminary objections taken by the respondents that this OA is barred by limitation, it is observed that the applicants except the Applicant No.16 have filed an earlier OA No.371/92 before Jodhpur Bench of the Tribunal on 17.1.1991 which after transfer to this bench has been registered as OA No.1139/93. At the desire of the applicants to withdraw it, by order dated 14.1.1994 the earlier OA was disposed of as having been withdrawn with a liberty to file a fresh application on the same grounds. The applicants thereafter have filed this OA in this bench on 17.4.1995. The applicants have not disclosed the delay which has taken place between 14.1.1994 till 17.4.1995. Further, according to the applicants themselves they were allegedly removed from employment in the year 1984. From 1984 onwards, till even 17.1.1991 they have not disclosed any reasons for filing the earlier OA also with delay. Neither any permission was sought to condone the delay in filing the earlier OA. Even in the present application the applicants have not explained the delay in instituting this OA on 17.4.1995 when

the earlier OA was permitted to be withdrawn with liberty to file a fresh OA vide order dated 14.1.1994. Hon'ble the Supreme Court has laid down as early as in 1992 in the case of Bhoop Singh vs. Union of India and Ors, JT 1992 (3) 322 (SC) that "inordinate and unexplained delay or laches is by itself a ground to refuse relief to the petitioner, irrespective of the merit of his claim." Further in the case of Ratam Chandra Samanta & Ors. Vs. The Union of India & Ors. JT 1993 (3) S.C. 418 it has been reiterated by Hon'ble the Supreme Court that "A writ is issued by this Court in favour of a person who has some right. And not for sake of roving enquiry leaving scope for manoeuvring. 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 OA also, there has been no fresh cause of action entitling the applicants to seek re-employment after their services were dispensed with by the respondents in the year 1984. The OA being highly belated is liable to be dismissed only on this ground being barred by limitation.

6. However, the learned counsel for the applicants and respondents were also heard on merits since it has been pending consideration since 1995. The only ground on the basis of which the applicants are seeking re-employment with the respondents is that their names exist in the Panel Annexure A/2 prepared by the respondents. It is urged that this panel has been prepared after screening of the applicants alongwith other listed persons in it. A perusal of this list dated 6.7.1982 indicates that it has been prepared with the sole purpose to find engagement of suitable casual labours in Wagon and Repair Workshop, Fota as and when required. It is further made out that consequent upon this list, the applicants were extended appointment vide Annexure B/1 dated 24.3.1984. The terms and conditions on which the appointments were extended to the applicants were also given therein. One of the condition for engagement of the applicants has been that their appointment is purely on adhoc basis and shall be for a period of three months i.e. 90 days w.e.f. 26.3.1984 or as and when sanctioned work comes to an end and that dis-engagement would be on the basis of last come first go. According to the applicants themselves, they

have worked with the Respondents Railways for the period ranging between 16 to 36 days only as disclosed in the particulars mentioned in the beginning of the OA. The appointments of the applicants being for a specific duration and they according to their own version have not even worked for 90 days, they have now no right to claim that they should be provided engagement since their names appear in the Panel prepared as at Annexure A/2 dated 6.7.1982. The Panel Annexure A/2 dated 6.7.1982 appears to have been prepared for the sole purpose of specific engagement to be made by Wagon Repair Shop stationed at Kota and it has exhausted its utility after the appointment order dated 24.3.1994 was issued by the respondents in favour of the applicants as also other individuals named therein. Appointments which are alleged by the applicants as fresh appointments made by the respondents after their disengagement are of the period between 17.9.1984 to 1.11.1990 and that too for the reasons disclosed by the respondents i.e. on compassionate grounds and on the basis of mutual transfer of the employees losing their seniority. Their appointments cannot be set at naught; more particularly when none of them have been made party in this OA.

7. For all the aforesaid reasons, there is no merit whatsoever in this OA. The OA is dismissed as not only it being barred by limitation but also being devoid of any merit. No order as to costs.

  
(PATAN PRAKASH)  
JUDICIAL MEMBER