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IN THE CENTRAL ADMINSTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

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Date of Decision: 18.08.2000

1. OA 7/96

Mahesh Kumar, last employed as Casual Labour, Kota Division, Kota, r/o Old Rly Colony 82-L/D, Kota.

... Applicant

V/s.

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager (E), Western Railway, Kota Division, Kota.

... Respondents

2. OA 451/95

Nanhey, last employed as Casual Labour under CPWI, Gangapurcity, Western Railway, Kota Division, r/o Behind Colo Maszid Ward No.24, Gangapur City, Distt. Sawai Madhopur.

... Applicant

V/s.

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Dvl.Rly.Manager, W/Rly, Kota Division, Kota.
3. CPWI (North), Gangapurcity, W/Rly. Kota Division.

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, MEMBER (J)

HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

For the Applicants ... Mr.Shiv Kumar

For the Respondents ... Mr.Manish Bhandari

O R D E R

PER HON'BLE MR.N.P.NAWANI, ADMINISRATIVE MEMBER

Hon'ble proposed to dispose of these two OAs in view of ground and relief sought being practically similar.

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(17)

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For the Applicants ... Mr.Shiv Kumar

For the Respondents ... Mr.Manish Bhandari

O R D E R

PER HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

It is proposed to dispose of these two OAs in view of the background and relief sought being practically similar.

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2. The applicants were engaged as casual labourers for brief spells. In case of applicant in OA 7/96, the applicant claims to have worked from 1.7.85 to 30.9.89 in different spells, after which he was not further engaged. The applicant in OA 451/95 claims to have worked from 6.7.76 to 13.11.76 in different spells. They have stated that they were verbally told that when the work will be available they will be re-engaged again.

3. The grievance of the applicants is that while they were not re-engaged, some of their juniors were re-engaged. It is also their grievance that some freshers have been appointed dehors the rules on the desire of the Minister for Railways as per a news item, copy of which has been annexed as Ann.A/2. They have, therefore, approached this Tribunal for issuing directions to the respondents to re-engage them and extend to them all consequential benefits.

4. The respondents in their reply have taken a preliminary objection that these OAs are hopelessly time barred as the alleged disengagement had taken place in way back in 1989 in case of applicant in OA 7/96 and in 1976 in case of applicant in OA 451/95. It has also been stated on behalf

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of the respondents that re-engagement of casual ~~labourers~~ labourers is done strictly in accordance with the policy so framed by the Railway Board and the applicants are not entitled to such benefit as their cases are not covered by the said policy. In view of this, the judgement of the Hon'ble Apex Court in the case of Indra Pal Yadav is also not applicable in the present cases. In view of this, the OAs deserve to be dismissed.

5. We have heard the learned counsel for the parties and have also perused the material on record.

6. It appears from the service record annexed by the applicants themselves, at Ann.A/1, that the applicant in OA 7/96 appears to had worked in about 8 spells for 130 days in the year 1985 and 1989 (the dates are not very much legible) and the applicant in OA 451/95 had worked for a total 143 days between July, 1976 to November, 1976 in 7 spells. It is, therefore, clear that the aplicants were engaged purely on casual basis as per requirement of the work. It is well settled that the casual labourers are not entitled to protection of Article 311 of the Constitution of India and their engagement on casual work entirely depends

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on the requirement and satisfaction of the employer. Daily rated casual labourers do not, ipso facto, have a right to continuation on the work. In the present cases, the applicants had not even been given temporary status because they had not completed 240 days of engagement in a year. As regards the allegation of the applicants that some of their juniors were re-engaged we are of the opinion that it has no relevance because engagement of daily rated casual labourers depends mmd on the availability of work in a particular location under a particular supervisory officer and it cannot be said that if somebody has been engaged, all the other daily rated casual labourers have also to be engagedd. As regards the allegation put forward by the applicants that some persons have been directly appointed on the desire of the Minister for of Railways, it is based on a cutting from the newspaper xx and xx we cannot take cognigance of such a news item. Even otherwise simply because some persons have been regularly appointed in Group-D post, cannot by itself give a right to the applicants for similar appointment. In view of this, no case is made out for giving directions to the respondents to re-engage the applicants. The OAs are also hopelessly barred by limitation as the cause of

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action, if any, arose in case of applicant in OA 7/96 in 1989 and in case of applicant in OA 451/95 in 1976, whereas the OAs have been presented on 19.12.95 and 12.9.95 respectively. The OAs, therefore, deserve to be dismissed on the ground of delay and laches also.

7. In the circumstances, the OAs do not succeed and are dismissed with no order as to costs. However, this will not preclude the respondents from engaging the applicants as and when work is available.

(N.P.NAWANI)
MEMBER (A)

(S.K.AGARWAL)
MEMBER (J)