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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 1.5.2000

OA 129/95

Hakim Singh, last employed as Substitute at Bayana under CTXR Bayana, Kota Division, Kota.

... Applicant

Versus

1. Union of India through General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Kota Division, Kota.
3. Sr.Divisional Commercial Supdt., Western Railway, Kota Division, Kota.

... Respondents

CORAM:

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

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

For the Applicant

... Mr.Shiv Kumar

For the Respondents

... Mr.Hemant Gupta, proxy
counsel for Mr.M.Rafiq

O R D E R

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

In this OA, the applicant makes a prayer to direct the respondents to re-engage him on the post of casual labour and to allow him consequential benefits at par with his juniors.

2. Facts of the case, as stated by the applicant, are that the applicant was initially engaged on the post of casual/substitute under CTXR Bayana on 7.1.82 and after medical examination he was medically found fit for engagement on the post of non-approved candidate on 5.1.82. The applicant took up the matter for his engagement with the Labour Enforcement Officer but he was told that there is a ban on engagement of fresh casual labourers w.e.f. 14.7.81. Therefore, the applicant was discontinued. Thereafter, the applicant made several efforts but with no result. It is stated by the applicant that two juniors to him have been engaged in service. Therefore, the action of the respondents in not engaging the applicant is illegal, arbitrary and discriminatory. Therefore, the applicant filed this OA for the relief as mentioned above.

3. Reply was filed. In the reply it has been made clear that division seniority of casual labourers is maintained department-wise. Since the

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applicant was of Mechanical Department, he had no claim to engage in the Traffic Department. The two candidates mentioned by the applicant were engaged as Hot Weather Watermen in the Traffic Department and in the Mechanical Department already there are about 44 non-approved candidates who are waiting for regularisation. Therefore, the applicant has no claim for his engagement as casual labour and this OA is devoid of any merit and is liable to be dismissed.


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

5. It is a settled law that casual labourer has no right to the particular post. He is neither a temporary government servant nor a permanent government servant. Protection available under Article-311 does not apply to him. His tenure is precarious. His continuance is depend on the satisfaction of the employer. Temporary status conferred on him by the scheme only confers him those rights which are spelt out in clause-5 of Casual Workers (Grant of Temporary Status & Regularisation) Scheme, 1993. A daily rated casual labourer does not ipso-facto gets a right of continuance but the right of continuance is subject to availability of work, satisfactory performance and conduct.

6. In the instant case, the applicant appears to have been disengaged in the year 1981 but he has approached this Tribunal in the year 1995. The application appears to be hopelessly barred by limitation. Not only this, even on merit the applicant has no case for interference by this Tribunal. Therefore, this OA is liable to be dismissed.

7. We, therefore, dismiss this OA with no order as to costs.


(N.P. NAWANI)
MEMBER (A)


(S.K. AGARWAL)
MEMBER (J)