

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No111/99

Date of order: 29/6/2001

1. Keshav Singh, S/o Sh.Ram Saran Verma
2. Dinesh Singh, S/o Sh.Rama Saran Verma
3. Ram Prakash, S/o Sh.Ram Bharose
4. Ram Kishan Sahai, S/o Sh.Kamal Singh
5. Shiv Sahai, S/o Shri Hariyaji
6. Akawar Khan, S/o Sh.Nennay Khan
7. Munir Ahmed, S/o Habid Ahmed
8. Mahendra Singh, S/o Sh.Mohan Singh
9. Hari Singh Raju, S/o Sh.Darashan Singh
19. Rajesh Kumar, S/o Sh.Ram Charan
11. Munna Lal, S/o Sh.Genda Lal
12. Sukhbeer Singh, S/o Sh.Devi Singh
13. Narendra Singh, S/o Sh.Raghunath

Last employed as Casual Coal Unloader/Loader, O/o Fitter Incharge, Loco Shed, Achenera Rly.Station, Distt.Agra, Western Railway.

...Applicants.

Vs.

1. Union of India through General Manager, W.Rly, Church Gate, Mumbai.
2. Divisional Railway Manager, W.Railway, Jaipur Division, Jaipur.

...Respondents.

Mr.P.V. Calla : Counsel for applicants

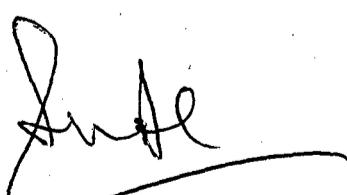
Mr.U.D.Sharma : Counsel for respondents

CORAM:

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

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

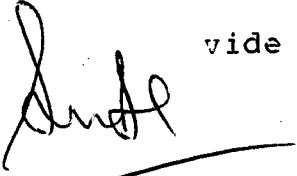
In this O.A, the only prayer of the applicants is to



direct the respondents to interpolate the names of the applicants in casual Labour Live Register and for absorption against Group-D posts as and when their turn comes.

2. Facts of the case as stated by the applicant are that the applicants were initially engaged as casual Unloader/Loader in loco shed Achenera for loading and unloading coal on/from train on the basis of availability of work. Details regarding appointment of the applicants are given in para 4.1 of the O.A. It is stated that the applicants were issued labour cards but they were not being treated as casual labourer but were treated as contract labourer working on piece rate basis. It is stated that some of the casual loaders/unloaders filed O.A before the Tribunal for claiming benefits of temporary status and regular absorption and the same was disposed of vide order dated 21.10.94. Thereafter, a decision was taken to grant temporary status and to absorb against Group-D posts to those who have worked for 120 days or more during the period 1.7.90 to 30.6.92. It is stated that none of the applicants were eligible for grant of temporary status and regular absorption as they did not complete the requisite number of days service during the period 1.7.90 to 30.6.92. It is stated that the names of the applicants have not been entered in Casual Labour Live Register, therefore, the applicants submitted a detailed representation on 25.6.98 but with no response. Therefore, the applicants filed this O.A for the relief as above.

3. Reply was filed. In the reply, it is stated that the Ministry of Railways have formulated a scheme vide order dated 31.8.92 and the Tribunal has disposed of O.A No.440/90 vide its order dated 21.10.94, accordingly. But none of the



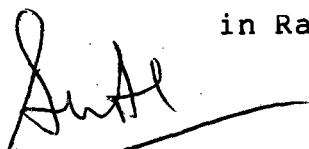
applicants of this O.A had completed 120 days of service or more during the period from 1.7.90 to 30.6.92, therefore, they were not held eligible to be included in the list of eligible person for being considered as casual labourer. It is stated that Annx.A4 does not disclose any decision of the Railway Administration that number of days shall be reckoned on the basis of 3.5 Tons of coal loaded per day. It is also stated that this O.A is barred by limitation as the representation filed by the applicants was decided on 25.1.95 and this O.A was filed in March 1999. In view of the reply filed, it is stated that this O.A is liable to be dismissed.

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

5. The learned counsel for the applicants argued that name of Shri Har Govind, Coal Loader/Unloader has been interpolated which is evident from the letter dated 8.5.96 (Annx.A3) and the case of the applicants in this O.A are also identical, therefore, they are entitled to the relief sought for. On the other hand, the learned counsel for the respondents has argued that this O.A is not maintainable as hopelessly barred by limitation.

6. I have given anxious consideration to the rival contentions of both the parties and also perused the whole record.

7. On the basis of circulars issued by the Railway Board from time to time, it can be said that for interpolating names of casual labourer in casual labour live register, instructions are issued and on the basis of these instructions Casual Labour Live Register is being maintained in Railways.



8. 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.E(NG)II/89/CL/1, dated 23.3.90, 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, tract modernisation, etc. This requirement will apply even in those cases where additional casual labour are required for emergencies like restoration of breaches, etc."



9. According to the applicants, they have filed the O.A in March 1999 whereas the representation filed by them was replied by the respondents' department vide its letter dated 25.1.95. As per the photocopy of the labour cards filed by the applicants, it appears that none of them had completed 120 days or more service during the period 1.7.90 to 30.6.92. The applicants should have approached this Tribunal within one year from the date on which the cause of action has arisen or after 6 months in case their representation has not been replied. But in this case, the applicants have approached this Tribunal after lapse of more than 4 years of the reply given by the department on 25.1.95.

10. In S.S.Rathore Vs. State of M.P., AIR 1990 SC, it has been made very clear that representations do not extend the period of limitation.

11. In Bhoop Singh Vs. Union of India, AIR 1992 SC 1414, it was held by the Hon'ble Supreme Court that 'it is expected of the Govt servant who has legitimate claim to approach the court for the relief he seeks within a reasonable period. This is necessary to avoid dislocating the administrative set up. The impact on the administrative set up and on other employees is strong reason the consideration of stale claim.'

12. In U.T.Daman & Deav & Ors, Vs. R.K.Valand, 1996(1) SCC(L&S) 205, Hon'ble Supreme Court held that 'the Tribunal fell in patent error in brushing aside the question of limitation by observing that the respondent has been making representation from time to time and as such the limitation would not come in his way.'

13. In Mahabir & Ors Vs. Union of India, 2000(3) ATJ page 1 (Full Bench, P.B, New Delhi) has decided on reference

as under:

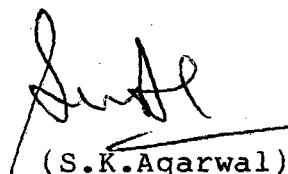
Provisions of the relevant Railway Board's circular dated 25.4.1986 followed by the circular dated 28.8.97 issued by General Manager, Northern Railway for placing the names of casual labour on the live casual labour register do not give rise to a continuous cause of action and hence the provisions of limitation contained in Sec.21 of the Administrative Tribunals Act, 1985 would apply.

14. In view of the settled legal position and facts and circumstances of this case, I am of the considered opinion that this O.A is hopelessly barred by limitation as the applicants of this O.A did not approach this Tribunal within the stipulated time, as per the provisions contained in Sec. 21 of the Administrative Tribunals Act, 1985. No reasonable explanation has been given for such unreasonable delay.

15. The case of Har Govind & Ors, does not appear to be identical to this O.A as in that case Har Govind filed O.A No.182/91 which was decided on 7.10.94 and in view of the decision given by this Tribunal the name of Har Govind was interpolated in the Casual Labour Live Register but in the instant case, the O.A was filed after more than 4 years from the date when the representation filed by the applicants was replied. Therefore, the case of Har Govind cannot be treated as identical with the instant case.

16. In view of above, this O.A is liable to be dismissed as hopelessly barred by limitation.

17. I, therefore, dismiss the O.A with no order as to costs.


(S.K. Agarwal)

Member (J).