

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR
O.A.No.482/2000

Date of order: 13/12/2001

Om Prakash, S/o Shri Ram Kishan Chhawdi, R/o Bad
Bagichi, Chhawdioka bas, Bandi Kui-303313.

...Applicant.

Vs.

1. Union of India through the General Manager, W.Rly,
Churchgate, Mumbai.
2. The Divisional Rly.Manager, W.Rly, Jaipur Division,
Jaipur.
3. Sr.Divisional Electrical Engineer (Estt) W.Rly,
Jaipur Division, Jaipur.

...Respondents.

Mr.C.B.Sharma : Counsel for applicant
Mr.R.G.Gupta : for respondents.

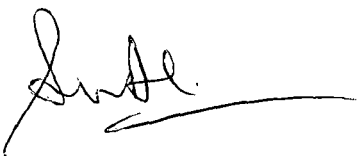
CORAM:

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

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

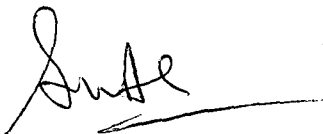
The prayer of the applicant in this O.A filed under
Sec.19 of the ATs Act, 1985, is to regularise the applicant
against Group-D post alongwith all consequential benefits at
par with his next junior and to modify the order dated
16.5.2000 accordingly.

2. Facts of the case as stated by the applicant in this
O.A are that the applicant was initially engaged as casual
labourer in May 1983 for loading/unloading of coal in the
office of Loco Foreman, Bandi Kui and worked upto June 83.
Thereafter, the applicant was employed at Sawaimadhopur in
the office of Chief Trains Examiner in Traffic Department
during the period from 1.5.85 to 6.8.85 with certain breaks
and he was not engaged thereafter. It is stated that a



casual labour card was issued to the applicant in the year 1983 which shows that the applicant rendered 78 days service in total. The applicant approached the divisional office for his re-engagement but he was told that there is a total ban on the appointment of Group-D employees and he can only apply as and when applications are invited by the department. The applicant again submitted his representations and he was replied vide letter dated 26.11.92 that his name has been registered in the casual labour live register and as and when his number comes he will be considered. It is stated that the applicant has come to know that the Railway Board has decided to regularise and absorb about 56000 casual labours in the Railways and the applicant is expecting his regularisation. But he was not called for screening and his candidature has been neglected in toto. It is stated that persons appointed later on the applicant has been absorbed whereas his name has not been considered. Therefore, the applicant is also entitled to the benefit at par with his next juniors in Group-D post. It is also stated that the applicant has been treated as separate class without any intelligible defferentia therefore, the impugned order is ex facie illegal, arbitrary, discriminatory and deserves to be modified by interpolating the name of the applicant at par with his junior. Therefore, the applicant filed this O.A for the relief as above.

3. Reply was filed. In the reply, it is stated that the applicant worked on Engineering side whereas persons referred in Annx.A1 are on Traffic side and these two establishments of Railways have no link with each other in the matter under dispute. It is denied that the applicant is entitled to any benefit at par with others who are in



different establishment. It is also denied that there has been any violation of any of the provisions of the Constitution of India, in the instant case. It is also stated that this application is a belated one and the applicant is not entitled to any relief and he did not render continuous service and at present he is no more in service. Therefore, the applicant has no case.

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

5. It is settled law that casual labour has no right to the particular post. He is neither a temporary govt servant nor a permanent govt 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. A temporary status conferred on him by the scheme only confers him those rights which are spelt out in clause (v) of the Casual Labour (Grant of Temporary Status & Regularisation) Scheme. A casual labour can only be regularised only after selection, as per scheme framed by the department and a daily rated casual labour cannot be regularised dehorse the rules.

6. The learned counsel for the respondents during the course of arguments mainly raised two grounds and argued that on the basis of these two grounds, the applicant has no case.

(i) The applicant only worked as casual labour from May 83 to June 83 and 1.5.85 to 6.8.85 for 78 days only and this O.A has been filed in the year 2000, therefore, the same is hopelessly barred by limitation.

(ii) The applicant worked in Engineering side whereas the persons referred in Annx.A1 are on Traffic side and these



two establishments of Railways have no link with each other in the matter under disputed.

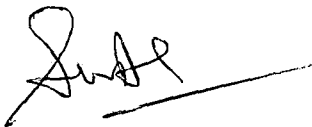
7. Heard the learned counsel for the applicant also and perused the whole record.

8. As regards, limitation, the main purpose of limitation provided under Sec.21 of the A.T Act is that the govt servant who has legitimate claim should immediately agitate the same against the adverse order against him and on getting the final order he should approach within one year or within 6 months from the date of representation to which no reply has been received.

9. In Yashber Singh & Ors Vs. UOI & Ors, AIR 1988 SC 662, it was held by Hon'ble Supreme Court that 'it is well settled that any one who may feel aggrieved with an administrative order or decision affecting his right should act with due diligence and promptitude and not sleep over the matter. Raking of old matters after a long time is likely to result in administrative complication and difficulties and it would create insecurity and instability in the service which would affect the efficiency.

10. In Bhoop Singh Vs. UOI, AIR 1992 SC 1414, it was held by Hon'ble Supreme Court that 'it is expected of a 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 inordinate delay or laches itself a ground to refuse relief irrespective the merit of his claim.

11. In UOI & Ors Vs. Harnam Singh, 1993 SCC (L&S) 375, the Hon'ble Supreme Court held that 'the law of limitation may operate harshly but it has to be applied with all its vigour and Courts/Tribunal cannot come to the aid of those



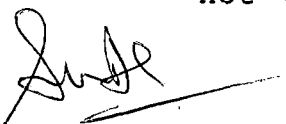
who sleep over the right and allow the period of limitation to expire.

12. In Ratan Chandra Samat Vs. UOI & Ors, JT 1993(3) SC 418, the Apex Court held that a person who sleep over his grievances loses his right as well as remedy.

13. In Ramesh Chandra Sharma Vs. Udhav Singh Kamal & Ors 2000(1) SC SLJ 178, the applicant challenged the order of rejection of promotion dated 2.7.91 on 2.6.94 by way of O.A. The Tribunal allowed the relief but Hon'ble Supreme Court held that O.A was time barred before the Tribunal and the Tribunal was not right to overlooking the statutory provisions as contained under Sec.21(1)(3) of the ATs Act.

14. The applicant worked as casual labour only in 1983 to 1985 for only 78 days in different spells and thereafter he did not agitate the matter with the competent authority, as is evident from the reply filed by the respondents to which there is no rejoinder. Therefore, looking to the facts and circumstances of this case and settled legal position, I am of the opinion that the case of the applicant is hopelessly barred by limitation.

15. As regards the second contentions of the counsel for the respondents, it is evident from the pleadings that the applicant did not work continuously after the year 1985. It is also evident that the applicant worked on Engineering side whereas the persons referred in Annx.A1 are on Traffic side. As per the reply filed by the respondents, these two establishments have no link with each other in the matter under dispute. The applicant failed to establish the fact that these two establishments are linked with each other. Therefore, the contention of the applicant in this regard is not tenable. In my view, the applicant is not entitled to



any benefit at par with others who are in different establishment.

16. Hence on merits, the applicant is not entitled to any relief sought for and this O.A appears to be hopelessly barred by limitation. Therefore, I have no alternative except to dismiss this O.A.

16. I, therefore, dismiss this O.A as the same does not call for any interference by this Tribunal with no order as to costs.



(S.K. Agarwal)

Member (J).