

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

O.A.No.18/2000

Date of order: 31/8/2001

Sohan Lal Saini, S/o Sh.Nanag Ram, R/o Dhani Pala
Das ki, Tehsil Srimadhopur, Distt.Sikar (Raj).

...Applicant.

Vs.

1. Union of India through the General Manager, W.Rly, Churchgate, Mumbai.
2. The Divisional Rly. Manager, W.Rly, Jaipur.
3. Divisional Railway Personnel Officer, Western Rly, Jaipur.
4. Permanent Way Inspector, W.Rly, Kanwat, Distt.Sikar.

...Respondents.

Mr.Ajay Gupta : Counsel for applicant

Mr.S.S.Hasan : for respondents.

CORAM:

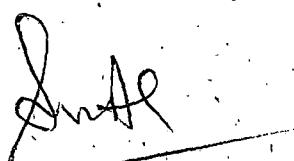
Hon'ble Mr.S.K.Agarwal, Judicial Member.

Hon'ble Mr.S.A.T.Rizvi, Administrative Member.

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

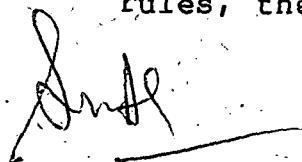
In this O.A filed under Sec.19 of the ATs Act, 1985, the applicant makes a prayer to direct the respondents to include the name of the applicant in casual live register and to engage the applicant as casual labour with all consequential benefits.

2. The case of the applicant in brief is that he was engaged as casual labour in the year 1982 in Railways and worked their in the year 1982, 1983 and 1984. He was removed in the year 1984 and the applicant alongwith others challenged the said removal by filing O.A No.822/92 before the Principal Bench, New Delhi. The Principal Bench New Delhi, vide its order dated 26.9.94 directed the respondents



to include the name of the applicant in the live casual labour register if the applicant is eligible for such inclusion in terms of circular dated 28.8.87 of General Manager, Northern Railway (referred to in Net Ram's judgment) and engage the applicants as casual labourers if and when need arises. Further directions were also given that the applicants should submit representation to the competent authority within one month from the date of receipt of this order alongwith proof relating to the claim that they are entitled to be included in the live casual labour register and in case such representation is received, the respondents shall dispose of the same in accordance with law, within a further period of 3 months thereafter. It is stated that the applicant sent his representation on 28.10.94 alongwith proof by UPC post but the name of the applicant was not included in the casual live register by the respondents. It is further stated that the applicant filed number of representations but nothing has been done, therefore, the applicant sent a legal notice through his counsel but no action was taken, therefore, the applicant filed this O.A for the relief as above.

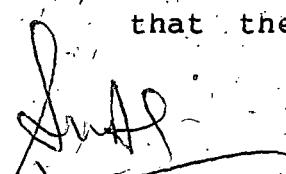
3. Reply was filed. It is stated in the reply that the application is barred by limitation. It is also stated that the respondents did not receive any representations. It is further stated that if no action was taken by the respondent department on the representation dated 28.10.94 why the applicant has not preferred a Contempt Petition. It is stated that the respondents' department does not have any record pertaining to the applicant that he was engaged in the years 1982, 1983 and 1984 and it is stated that as per rules, the applicant is not entitled to include his name in



the casual live register. Therefore, the applicant has no case.

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

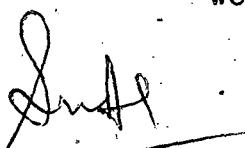
5. It is an admitted fact that O.A No.822/92 was filed before Principal Bench, New Delhi by one Laxmi Narain and others in which the applicant was also a party and the Tribunal allowed the O.A vide order dated 26.9.94 and directed the respondents to include the name of the applicants in casual live register in terms of circular dated 28.8.87. In view of the said order, the Tribunal also directed the applicants to submit representation alongwith proof, within 3 months and the respondents department was directed to dispose of the representation within 3 months from the date of receipt of such representation. But in the case of the applicant, no such representation appears to have been decided/disposed of by the department. From the averments of the parties, it also appears that in pursuance of the directions in O.A No.822/92 dated 26.9.94, the applicant filed representation on 28.10.94 although the same has been denied by the respondents' department but thereafter the applicant made it clear that he further sent representations to the respondents' department on 23.10.96, 7.10.97, 10.12.97, 6.3.99 and 4.11.99. It is also made clear from the averments that a legal notice was also sent to the respondents' department through his counsel for inclusion of the applicant's name in the casual live register in pursuance of the order dated 26.9.94 passed by the Principal Bench in O.A No.822/92 but the respondents' department did not take any action. The counsel for the applicant argued that the applicant is continuously agitating this issue



before the respondents and they did not take any action so far. On the basis of above, it can be safely said that the applicant was agitating the issue continuously after passing the order in O.A No.822/92 dated 26.9.94, therefore, it will not be proper to say that in the facts and circumstances of this case, the O.A is barred by limitation. If for the sake of arguments on technical grounds it is stated to be barred by limitation, then, the said period of delay is liable to be condoned. Therefore, in the facts and circumstances of this case, we are of the opinion that the O.A cannot be dismissed only on this ground that the same is barred by limitation and the contention of the learned counsel for the respondents has no force.

6. The philosophy behind the maintenance of casual live register that people should normally reengage who had once been engaged and this record of service be maintained in a live labour register. Once the casual labourers are engaged and they worked 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. This philosophy summed up in the Railway Board's circular dated 28.8.87 and later on in the circular dated 23.3.90.

7. As by the order passed by the Principal Bench in O.A No.822/92, necessary directions have already been given in favour of the applicant and it appears that the respondents department failed to comply with those directions, therefore, it will be expedient in the interest of justice to give suitable direction to the respondents' department to include the name of the applicant in the casual live register as maintained by the department, if he has actually worked as casual labour in the years 1982, 1983 and 1984 as



alleged by him.

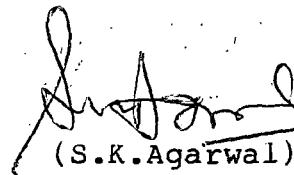
8. We, therefore, allow this O.A. and direct the respondents to include the name of the applicant in the casual live register if he is eligible for such inclusion, in terms of circular dated 28.8.87. In order to enable the respondents to take such action, the applicant shall make representation to the competent authority within one month from the date of receipt of this order alongwith proof relating to his claim and the respondents' department shall dispose of such representation within 3 months from the date of receipt of such representation. If the name of the applicant included in the casual live register thereafter he shall be entitled to engage as casual labour as and when his turn comes.

9. No order as to costs.



(S.A.T.Rizvi)

Member (A).



(S.K.Agarwal)

Member (J).