

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH,
JAIPUR.

Date of Decision: 12/4/2002

OA 163/2002 with MA 126/2002

1. Heera Lal s/o Shri Sukha ji Koli r/o 747/26, Nai Basti, Bhagwan Ganj, Ajmer.
2. Karan Singh s/o Shri Laxman Singh Jatav r/o 1348/26, Nai Basti, Bhagwan Ganj, Ajmer.

... Applicants

Versus

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.
2. Chief Works Manager, Loco Workshop, W/Rly, Ajmer.

... Respondents

CORAM:

HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

HON'BLE MR.J.K.KAUSHIK, JUDL.MEMBER

For the -Applicants ...Mr.N.K.Gautam

For the Respondents ... _____

O R D E R

PER HON'BLE MR.A.P.NAGRATH, ADM.MEMBER

In this application filed u/s 19 of the Administrative Tribunals Act, 1985, the applicants seek the following reliefs :

"i) Direct the respondents to give appointment to the applicants in Class IV service in their control.

ii) Direct the respondents to assign seniority to applicants w.e.f. the year 1981 alongwith other class members as per position in the panel (Ann.A/4)."

2. We have perused the averments in the OA and heard the learned counsel for the applicants. The basis of claim of the applicants is that they were



engaged by respondents as casual labourer in the year 1975. Vide notification dated 26.3.81, applications were invited from the casual labourer to fill up regular Class IV vacancies. A panel of 1161 successful candidates was notified vide letter dated 13.6.81. The applicants claim that their name appeared at S.No.71 and 64. The learned counsel stated that since then the applicants have been waiting for being appointed but the respondents have taken no action. According to him, some of the candidates had moved this Tribunal and vide order dated 24.5.94 directions were given to the respondents to grant appointment to those candidates w.e.f. the year 1981. Having come to know about this fact in the year 2001, the applicants have moved this OA. The learned counsel, Shri N.K.Gautam, very vociferately emphasised that the applicants are discriminated against and there is a violation of Articles 14 and 16(1) of the Constitution.

3. On our repeated queries, the learned counsel was not able to tell us whether based on this panel any appointments have been offered. Be that as it may, the question which arises for our consideration is that even if the applicants were entitled as a matter of right to be considered for appointment on the basis of the panel formed in 1981, can they agitate the matter in the year 2002. Similar issue came up for consideration of Hon'ble the Supreme Court in the case of Ratam Chandra Sammanta & Ors. v. UOI & Ors., JT 1993 (3) SC 418. In that case the petitioners were employed between the year 1964 to 1969 and were retrenched between 1975 to 1979. The question came up whether they were entitled, as a matter of law, for re-employment and whether they have lost that right. The Apex Court observed that; ~~the petitioners did not~~



"But unfortunately the petitioners did not take any step to enforce their claim before the Railways except sending a vague representation nor did they even care to produce any material to satisfy this Court that they were covered in the scheme framed by the Railways. It was urged by the learned counsel for petitioners that they may be permitted to produce their identity cards etc., before opposite parties who may accept or reject the same after verification. We are afraid it would be too dangerous to permit this exercise. A writ is issued by this Court in favour of a person who has some right. And not for sake of roving enquiry leaving scope for manoeuvring. Delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation a person who has lost his remedy by lapse of time loses his right as well. From the date of retrenchment if it is assumed to be correct a period of more than 15 years has expired and in case we accept the prayer of petitioner we would be depriving a host of others who in the meantime have become eligible and are entitled to claim to be employed. We would have been persuaded to take a sympathetic view but in absence of any positive material to establish that these petitioners were in fact appointed and working as alleged by them it would not be proper exercise of discretion to direct opposite parties to verify the correctness of the statement made by the petitioners that they were employed between 1964 to 1969 and retrenched between 1975 to 1979."

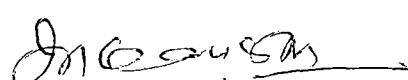
Similar issue came up for scrutiny before the Full Bench sitting in Principal Bench of the Central

Administrative Tribunal in the case of Mahabir and ors. v. UOI & Ors., OA 706/96. In that case, the prayer of the applicants was to have their names placed in the Live Casual Labour Register. Following the case of 'Ratam Chandra Sammanta' it was held as under :

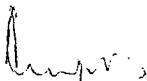
"Provisions of the relevant Railway Board's circular dated 25.4.86 followed by the circular dated 28.8.87 issued by General Manager, Northern Railway for placing the names of casual labour on the live casual labour register do not give rise to a continuous cause of action and hence the provisions of limitation contained in Section 21 of the Administrative Tribunals Act, 1985 would apply."

In the case before us, the learned counsel had taken a plea that non-appointment of the applicants is a continuing cause of action and no limitation can apply in such a case. This contention also stands answered by the Full Bench in the above case, where it was held that; "placing the names of casual labour on the live casual labour register does not give rise to a continuous cause of action." Similarly, not offering appointment from a panel which was formed way back in the year 1981, in no way can be considered to give rise to a continuing cause of action. It is not the case of the applicant that after 1981 anybody has been appointed in Ajmer Division of Western Railway in Group-D. Obviously, the case of the applicants is hopelessly barred by limitation and is liable to be rejected. MA 126/2002 has also been listed for pursuing this OA jointly. In view of the view we have taken, we are disposing this OA in limine and this MA thus becomes infructuous and is disposed of as such.

4. We dismiss this OA in limine as hopelessly barred by limitation.


(J.K. KAUSHIK)

MEMBER (J)


(A.P. NAGRATH)

MEMBER (A)