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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A. NO. 598/2003

New Delhi, this the 13th day of January, 2004

HON'BLE MR. SARWESHWAR JHA, MEMBER (A)

Shri Som Nath,
S/o Shri Mam Raj,
Ex-Casual Labour,
Under Permanent Way Inspector (Construction),
Northern Railway,
Saharanpur

.... Applicant

(By Advocate : Shri B.S. Mainee)

V e r s u s

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi
2. The Chief Administrative Officer (Construction),
Northern Railway,
Kashmeri Gate,
Delhi
3. The Executive Engineer (Construction),
Northern Railway,
Saharanpur

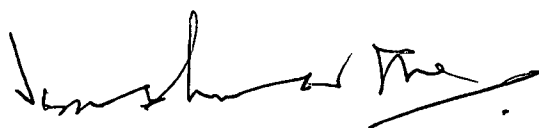
.... Respondents

(None for respondents)

O R D E R (ORAL)

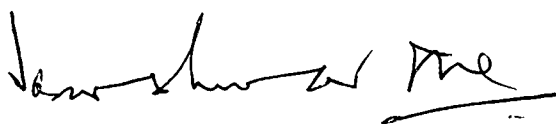
The applicant has impugned respondents' order dated the 18th October, 2001 whereby his case for re-engagement as a Casual Labourer has been rejected (Annexure A-1).

2. The applicant had initially been appointed as a Casual Labourer and had worked as such from 21.11.1983 to 20.2.1984 under Permanent Way Inspector (Construction), Northern Railway, Saharanpur. He has claimed that, as per the Scheme of the Railway Board, his name should have been placed on the Live Casual Labour Register and his services



should have been re-engaged accordingly. He has placed a copy of the said Scheme at Annexure A-3 to the OA. It is observed that a letter recommending his case for re-engagement had been addressed by Member of Parliament, Shri Harpal Singh Sathi, vide his letter addressed to the then Minister of State for Railways on 31.7.1998 and the same had been forwarded by the General Manager, Northern Railway to the Secretary, Railway Board, New Delhi for consideration. It is observed that the Northern Railway found the applicant over aged and accordingly requested the Railway Board to consider according age relaxation. It appears that the matter was again taken up by the Member of Parliament concerned on 26.9.2000 (Annexure A-8). However, after carrying out necessary enquiries, it appears to have been informed that the applicant had served the respondents only for 92 days. On 18.10.2001, the Railway Board rejected the case of the applicant in regard to relaxation of age. Hence the OA.

3. The respondents have, however, submitted that they have issued the impugned order only after examining the matter and as such they have denied that the said order is arbitrary or illegal. According to them, the applicant did not approach the respondents for his re-engagement after 20.2.1984 nor did he take up the issue of inclusion of his name in the Live Casual Labour Register as per the Circular dated 28.8.1987. In their opinion, the letter of the Hon'ble Member of Parliament dated 31.7.1998 cannot be treated as a fresh cause of action, as the letter itself was barred by limitation under the Act. On the question of inclusion of the name of the applicant in the Live Casual



Labour Register, the respondents have submitted that the name of a Casual Labourer who was in service prior to 1.1.1981 alone can be entered in the said Register in case of retrenchment. Perhaps, they have not taken the case of the applicant as a case of retrenchment. They have, in fact, submitted that engagement of Casual Labourers could not have been made without the personal approval of the General Manager after 1.1.1981. The applicant is reported to have left the service on his own and further that he did not make any representation nor did he approach the respondents, as submitted earlier, for inclusion of his name in the Live Casual Labour Register or for his re-engagement.

4. The respondents have cited the decision of this Tribunal in Mahabir & Ors vs Union of India & Ors. dated 10.5.2000 on the question of limitation to take a view that the present application is not as a result of any continuous cause of action and hence provisions of limitation contained in Section 21 of the Administrative Tribunals Act, 1985 would apply.

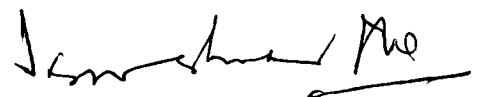
5. The applicant is, however, not satisfied with the position taken by the respondents in their counter reply to the OA. They have vehemently opposed the assertion made by the respondents that he left the job on his own. He has further submitted that while he filed a representation with the respondents on 13.2.2002, and the same was never responded to by the respondents, leaving him with no alternative but to file this OA. He has also reiterated that the letter of the Hon'ble Member of Parliament does give rise to a fresh cause of action. In his opinion, the decision cited by the respondents on limitation is not relevant. He has alleged that the other directions given by

Amreshwar Mehta

the Full Bench of the Tribunal as cited by the respondents have, however, been wrongly ignored by them while citing the said case.

6. On careful consideration and examination of the facts as submitted by both the parties in the OA, it is observed that it is not confirmed that the applicant has rendered only 92 days of service as Casual Labourer to the respondents. It also appears quite likely that he did not take up the matter regarding his re-engagement thereafter properly. I also do not find anything on record to suggest that the applicant took up the matter regarding inclusion of his name in the Live Casual Labour Register so that his services could have been re-engaged by the respondents when they required personnel for the relevant jobs, with the respondents. That being the case, I do not find any reason nor justification to interfere with the respondents having issued the impugned order. However, considering the fact that it is a settled law that Casual Labourers once engaged by the respondents should continue to figure on the Live Casual Labour Register so that their services could be utilised by re-engaging them if need for their services arises, in preference to engaging fresh hands, this OA is partly allowed with the direction to the respondents to look into the matter afresh and to see that the name of the applicant is included in the Live Casual Labour Register if he makes a request in this regard separately to the respondents and fulfils the requisite conditions for such inclusion. No cost.

7. With this, MA No.956/2003 also stands disposed of.



(SARWESHWAR JHA)
MEMBER (A)

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