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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 1406/2003

This the ~~7th day of May~~ ^{7th day of May} 2004

HON'BLE SH. KULDIP SINGH, MEMBER (J)

1. Pradeep Kumar,
s/o Sh. Om Prakash,
H.No.808, Kamra Bungus,
Dariya Ganj,
New Delhi.
2. Naveel Ahmad,
S/o Sh. Imamuddin,
H.No. B-54, Chhajjupur, *Shahdara*
Delhi.
3. Rajinder Prasad,
s/o Sh. Shankar Lal
Gali No.1, H.No.31,
Harijan Basti, Sadatpur,
Shahdara,
Delhi.
4. Ramesh Chander Gupta,
s/o Sh. Ram Govind Gupta,
Vijay Vihar,
G-98, Phase-I, Rohini,
Delhi.
5. Ramji Ram,
s/o Sh. Dhameshwar Ram,
H.No.222/41,
Near Block No.40,
Railway Colony,
Kishan Ganj,
Delhi.
6. Ijhar Hussain,
s/o Sh. Sirajuddin,
c/o S.K.Anand,
216, Dr. Lane,
Gole Market,
New Delhi.

(By Advocate: Sh. G.D.Bhandari)

Versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
 2. The Divisional Railway Manager,
Northern Railway,
State Entry Road,
New Delhi.
- [Signature]*

3. The Chief Administrative Officer (Const.),
Northern Railway,
Kashmere Gate,
Delhi.

(By Advocate: Ms. Anju Bhushan)

ORDER ~~(OP)~~

By Sh. Kuldip Singh, Member (J)

This is a joint application filed by six applicants seeking a direction to the respondents to deem the applicants as having been regularised/appointed in a Group-D post and extend the benefit, which is already given to Sh. Ramji Lal, S/o Sh. Mangal Singh, one of the 8 applicants, so discharged by the COOIS.

2. Facts in brief are that all the applicants were initially appointed as casual labours in July 1985 by the Central Organisation for Operations Information System (COOIS) which was set up in July 1985 as a Project for computerisation of Freight Operations over Indian Railways. Applicants worked there for about 2 years continuously. They were granted temporary status. Thus, they claim that they were granted temporary status and had become entitled for all the benefits of regular pay scales, protection of RS(D&A) Rules alongwith Temporary Service Rules.

3. The COOIS was wound up on 30.6.1987 which resulted in the retrenchment of the staff including the temporary status applicants. After they were discharged they were asked to report to the Delhi Division's Authorities. Their service records were also sent. However, no action was taken by the respondents to deploy the applicants. They were assured that their name would be enlisted in the Live Casual Labour

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Register and they will be re-engaged as per their turn but nothing was done. Applicants had been making representations but to no effect.

4. Ultimately applicants filed an OA No.1002/2000 seeking a direction to the respondents to give effect to their order dated 10.11.87 and to include their names in the Live Casual Labour Register (LCLR) and also to given consequential benefits. OA was contested on the ground of limitation also on the strength of Full Bench judgment in the case of Mahabir Singh vs. UOI. However, during the course of arguments, counsel for applicant submitted that he is restricting his prayer only to the extent that respondents be directed to consider including the name of applicants in the LCLR. So in view of this concession given by the counsel for applicant, Court directed the respondents to treat the OA as a fresh representation of the applicants verify the claims made by the applicants and consider inclusion of their names in the LCLR as per the instructions on the Scheme issued by the Government and dispose of the representation with a detailed and speaking order.

5. The authorities in compliance of the directions considered the representation of the applicants and applicants were then informed that the request for inclusion of name in the LCLR cannot be acceded to at this belated stage. So the applicants has challenged the same on various grounds and one of such ground that the points raised by the applicant in the earlier OA have not been considered properly particularly with regard to the appointment of one Ramji Lal s/o Sh. Mangal Singh. It is further stated that this Tribunal has been holding time and again that the cause of action for inclusion of the name in

the LCLR is a recurring one. So it is submitted that respondents cannot take the plea that the case of the applicant for inclusion of name in LCLR is belated one.

6. Respondents are contesting the OA. Respondents in their counter affidavit had taken a plea that the case of the applicant is barred by limitation as the applicant had asked for inclusion of their names almost after 16 years. Thus, their case is barred by limitation.

7. I have heard the learned counsel for the parties and gone through the record.

8. Counsel for applicant pointed out that this Court vide judgment given in OA-42/99 (Annexure A-12) had directed the respondents to register the name of the applicants in the LCLR if not already done in the similar circumstances and the plea of limitation taken by the respondents was negated by this very Court. But on the contrary respondents have argued that the case of the applicant for being included in the LCLR is hit by Full Bench judgment of this Tribunal in Mahabir Singh (supra) which was decided in May 2000 wherein it was held that claims raised after several years would attract the plea of limitation as contained in Section 21 of the AT Act.

9. Respondents also referred to a latest judgment given by Full Bench of Hon'ble Delhi High Court in case of Jagdish Prasad vs. Union of India and others wherein it has been held as under:-

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"Constitution of India, 1950 - Article 226 -
Maintenance of Live Casual Labour Register :
Cause of action not continuous one :
Decision in Shish Pal Singh case over-ruled
accordingly."

10. It is also pertinent to mention that Sh. G.D.Bhandari, counsel for applicant in this OA was also a counsel for the applicants before the HOn'ble Delhi High Court in Jagdish Prasad's case (supra).

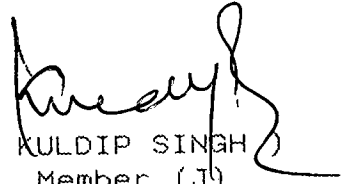
11. As regards the judgment referred by applicant as per Annexure A-12 is concerned though it was decided after the decision of Mahabir Singh (supra) of this Tribunal but this Full Bench was not brought to the notice of the Court, so the judgment given on 30.10.2000 after the judgment of the Full Bench without taking note of the Full Bench decision is per incurium and the same cannot be applied to the present case.

12. Counsel for applicant had taken a plea that the cause of action for non-inclusion of the name of the retrenched casual employee in LCLR is a continuous one. To that extent we find that respondents have relied upon a judgment in Jagdish Prasad's case (supra) wherein it has been held that the cause of action is not a continuous one and decision in Shish Pal Singh's case has been over-ruled. It appears that in the earlier judgment case of Shish Pal Singh had been followed but now since the same has been over-ruled as per Jagdish Prasad's case (supra) as it has been held that cause of action for including the names in the LCLR is not a continuous one. So now it is to be seen as to when the cause of action has arisen.

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13. Admittedly applicants were discharged from service some time in the year 1987 and they filed their first OA itself in the year 2000 which itself was belated one and had been filed after 13 years and that the plea of limitation was also taken but the Court restricting the prayer of the applicant for decision of representation directed the respondents to pass an appropriate order on the representation of the applicants. But this decision did not extend the limitation period for enlisting the names of the applicants in the LCLR.

14. The Court had simply directed the respondents to consider the inclusion of names of the applicants in the LCLR as per instructions and as per the scheme by the Government and dispose of the representation by a detailed and speaking order within a period of 3 months. But the Court did not held that the plea of limitation will not be a bar for inclusion of the names of the applicants. On the said directions department had considered the representation of the applicants and have passed the impugned order holding that the representation cannot be considered at this belated stage and in view of the Full Bench judgment of this Tribunal in Mahabir Singh's case (supra) decided on 10.5.2000 the claim of the applicants for including their names in the list of LCLR is quite a belated one and has become time barred on the plea of limitation itself, OA has to be rejected. Accordingly, I hereby reject the OA.


(KULDIP SINGH)
Member (J)