
(2002) 05 DEL CK 0153
In the Delhi High Court
Case No : CWP 4693 of 2001

Shiv Raj Singh

APPELLANT

Vs

Union of India (UOI) and Others

RESPONDENT

Date of Decision : 31-05-2002

Acts Referred:

Administrative Tribunals Act, 1985 — Section 21

Citation : (2002) 05 DEL CK 0153

Hon'ble Judges : S.B. Sinha, C.J.;A.K. Sikri, J

Bench : Division Bench

Advocate : V.P. Sharma, for the Appellant; Jagjit Singh, for the Respondent

Judgement

S.B. Sinha, C.J.—This writ petition is directed against a judgment and order dated 29th March 2001 passed by the Central Administrative Tribunal, Principal Bench, Delhi in OA 1056/2000 whereby and whereunder the Original Application filed by the petitioner herein was dismissed.

2. The petitioner was engaged as a casual labourer allegedly on 1st May 1978 and worked up to 22nd April 1986 in different periods, the details whereof are as under:

Period Authority/station under working

1.5.78 to 31.7.78 Station Master, Munda Pandey 7.12.79 to 31.12.79 Station Master, Munda Pandey 25.2.83 to 14.9.83 SEFO/CW/Muradabad 24.3.86 to 22.4.86 Under Loco Foreman Muradabad 3. He was discharged on completion of the work without any notice whatsoever. According to the petitioner, an application was invited by respondent No. 3 from the old casual labourers for Group D post where for the petitioner applied. He appeared for the screening test wherein the following remarks were made:

"Fit subject to following conditions:

(i) Production of CL Card

(ii) Production of school certificate.

(iii) The working days from 1.5.78 to 31.7.78: 92 days, 7.12.79 to 31.12.79 : 25 days. Under SM/MPH not counted due to non availability of records, Post facto approval of GM is required taking his initial appointment, as 25.2.1983."

4. Such post-facto approval, as requested by the third respondent had not been granted by the General Manager resulting in the petitioner's filing of an Original Application being No. 1874/98 before the Central Administrative Tribunal. The said application was dismissed directing:

"2. We, dispose of this OA with a direction to the respondents to take a decision in accordance with rules and instructions on the aforesaid letter dt. 2.2.98 under intimation to respondent No. 3 as well as to the applicant within three months from the date of receipt of a copy of this order."

5. As the said order was not implemented, a contempt petition was filed. The same was rejected on the ground that order dated 9th July 1999 had been passed rejecting the prayer of the petitioner where after the petitioner filed another Original Application questioning the said order. The said application had been rejected inter alias on the ground that the same was barred by limitation.

6. Mr. V.P. Sharma, the learned counsel appearing on behalf of the petitioner would submit that from the order dated 9th July 1999 impugned before the Tribunal, it would appear that his claim for appointment was rejected only on the ground that his name was not borne on casual labour register.

7. Mr. Sharma would submit that it is not a case where the petitioner sought for entry of his name in the casual register as from the various documents filed before the Tribunal, it would appear that the fact that he had worked for a period of more than as specified in the policy decision of the respondents, was accepted. Our attention in this connection has been drawn to a letter dated 5th March 1992 issued by the DRM, Northern Railway, Muradabad addressed to the General Manager (P), Head Quarter, wherein it was stated:

"As per the documents of the Sh. Shiv Raj Singh s/o Sh. Vijay Singh, he was engaged as casual labour under Station Master, Munda Panday, where he worked from 1.5.78 to 31.7.78 : 92 days and w.e.f. 7.12.79 to 31.12.79 : 25 days but on enquiry these days are not satisfactory verified.

After that Sh. Shiv Raj Singh worked as casual labour under Elect. Foreman (P), N. Rly. Muradabad which has been verified.

25-2-83 to 14.8.83 : 201 days

Sh. Shiv Raj Singh has been placed on panel of 1991 in Elect. Department and after deducting the unverified period his date of engagement became 25.2.83.

It is Therefore prayed that for his original engagement dt. 25.2.83, the approval of competent authority may be granted by which he can be appointed after

completion of other formalities."

8. The learned counsel would contend that thereafter several reminders had been sent by the competent authorities but despite the same, the impugned order has been passed.

9. The learned counsel in this connection, relied upon a Full Bench judgment of the Central Administrative Tribunal in Mahabir and Ors. v. Union of India and Ors., 2000 (3) ATJ 1.

10. Learned counsel appearing on behalf of the respondents, Mr. Jagjit Singh, on the other hand, would contend that the case of the petitioner is squarely covered by the Supreme Court decision in Ratan Chandra Sammanta and others Vs. Union of India and others, .

11. On the petitioner's own showing, he did not work after 1979. Initially he worked only up to 1979 where after he only worked for different periods in the year 1983 to 1986. It is not in dispute that the policy decision to maintain such leave casual register was taken in the year 1987.

12. It is further not in dispute that the petitioners name had not been registered there No grievance was made by the petitioner in that regard. Only when he was not employed pursuant to the recruitment notices issued by the third respondent as noticed hereinbefore, he filed OA 1874/98.

13. By reason of the impugned order, the representation of the petitioner was rejected inter alias on the ground that his name had not been kept on the live casual labour register.

14. In Mahabir and Ors. v. Union of India and Ors., (supra), the Full Bench of the Central Administrative Tribunal held that even in a case of dismissal of service, the limitation specified in Section 21 of the Administrative Tribunal Act would apply. It followed the decision of the apex court in Ratan Chandra Sammanta and others Vs. Union of India and others, wherein it was held:

"6. Two questions arise, one if the petitioners are entitled as a matter of law for reemployment and other if they have lost their right, if any due to delay. Right of casual labourer has been recognized both by the Railways and this any steps Court. But unfortunately the petitioners did not take 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 the 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 favor of a person who has some right. And not for sake of roving enquiry leaving scope for maneuvering. Delay itself deprives a person of his remedy available in law. In absence of any fresh cause of action or any legislation a person 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 a eligible and are entitled to claim to be employed...."

15. The apex court further relied upon a decision in *Smith v. East Rural District Council*, 1956 AC 736 as also on *Wade's Administrative Law* 6th edn., p. 353 and held:

"15. In one has regard to the aforesaid decision rendered by the Apex Court, we have no hesitation in holding that the provisions of limitation will undoubtedly apply to the claims raised in the present applications."

16. The apex court, however, set aside a circular dated 6th May 1998 whereby and whereunder it was held that all casual labourers must be appointed upon obtaining approval of the General Manager.

17. In view of the fact that the petitioner's name did not appear on the Live Casual Register, we are of the opinion that the learned Tribunal correctly held that the application was barred by limitation particularly having regard to the decision of the apex court in *Ratam Chandra Samanta and Ors. v. The Union of India and Ors.* (supra). The same view has been taken by a Full Bench of this court in CWP 450/2001 (*Jagdish Prasad v. Union of India*) decided on 07.05.2002.

18. In view of our foregoing findings, we find no merit in this petition. It is dismissed accordingly without any orders as to costs.