

IN THE HIGH COURT OF JUDICATURE AT PATNA

Civil Writ Jurisdiction Case No.10708 of 2014

1. Chandeshwar Prasad Singh, son of Late Yogendra Singh resident of village - Jyain, P.S. - Kajra, District - Muzaffarpur.

2. Lakhindra Sah @ Lakhindra Sah, son of Late Ghira Sah resident of Village - Jawadih, P.S. Karhani, District - Muzaffarpur.

.... Petitioners

Versus

1. The Union of India through the General Manager, E.C. Railway, Hajipur.

2. The Chief Administrative Officer (Con), East Central Railway, Hajipur District Vaishali (Bihar).

3. The Deputy Chief Personal Officer (Con) , Lakhindra, East Central Railway, Mahendru, Patna.

4. The Divisional Railway Manager, East Central Railway, Sonapur.

5. The Deputy Chief Manager (Construction), East Central Railway, Samastipur.

6. The Deputy Chief Engineer (Construction), East Central Railway, Samastipur.

.... Respondents

Appearance :

For the Petitioner/s : Mr. Shravan Kumar, Sr. Advocate
Mr. Dinesh Maharaj, Advocate

For the Respondent/s : Mr. Ankit Katriyar, Advocate

CORAM: HONOURABLE MR. JUSTICE HEMANT GUPTA

and

HONOURABLE MR. JUSTICE AHSANUDDIN AMANULLAH

ORAL JUDGMENT

(Per: HONOURABLE MR. JUSTICE HEMANT GUPTA)

Date: 05-04-2016

The challenge in the present writ petition is to an order dated 13.01.2014 passed by the Central Administrative Tribunal, Patna Bench, Patna, in OA No. 550 of 2012.

The petitioners have sought intervention of the Tribunal for regularization of their services with consequential benefits and to count the intervening period from the date of their disengagement up

to the date of their absorption as regular employees.

The petitioners are Casual Labourers in Group D. They are claiming absorption on the basis of seniority position shown on 01.04.1985. Petitioner no.1 is said to have been engaged on 9.3.1981 and has worked under the respondents for 490 days as on 1.4.1985, and 300 days after 1.4.1985 till 15th of January, 1989; whereas petitioner no.2 was engaged by the respondents on 7.3.1980 and he had worked for 695 days as on 1.4.1985, and 500 days after 1.4.1985 till 15th of February, 1988. The petitioners claim that on completion of their continuous service for 120 days/360 days, they were granted time scale, but they have been disengaged from service on the alleged ground of completion of work. Therefore, as similar employees have been absorbed they are also entitled to be absorbed on the basis of their seniority position shown on 1.4.1985. The reliance of the petitioners is on the judgment of the Supreme Court in the case of **Inderpal Yadav & Ors. Vs. The Union of India & Ors. [(1985) 2 SCC 648]**.

The stand of the respondents is that the petitioners do not fulfill the conditions laid down as stipulated for absorption nor the petitioners have come to this Court at earlier date. Therefore, the application before the Tribunal is barred by limitation.

The learned Tribunal found that the petitioners failed to



substantiate their claim for regularization during 1985-90. Therefore, their claim in 2011-12 is barred by limitation as a Pandora box cannot be re-opened visualizing a scene which had taken place around 1981-82 and in some cases 1984-85 and 1989-90 in some other cases. It was found that the persons who are really aggrieved by such disengagement had approached the Tribunal around the year 2000 and when still working. It was further observed that since the applicants remained in deep slumber during the relevant periods, their claim cannot be entertained at this time when new criteria has been fixed for engagement of daily casual labourers.

A perusal of the chart of work given by the petitioners shows appears that they have not worked since 1989. The Supreme Court has observed that if it is an engagement or appointment on daily wages or casual basis, the same would come to an end when it is discontinued. The same would not confer any right at all for absorption. If the petitioners have not been absorbed in the year 1989, they should have invoked the jurisdiction of the competent Tribunal soon thereafter. No continuing right is accrued to the petitioners since the petitioners are not working since 1989. Any cause of action to claim absorption arose at least in the year 1989. The jurisdiction of the Court was invoked only in the year 2012.

In view of the above, we do not find that at this stage, any

direction can be issued for absorption of the petitioners who ceased to be casual labourers working under the respondents in the year 1989.

Consequently, the writ application is dismissed.

(Hemant Gupta, J)

(Ahsanuddin Amanullah, J)

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