

(2012) 10 ADJ 316 : (2013) 136 FLR 799

Allahabad High Court

Case No: Civil Miscellaneous Writ Petition No. 21269 of 2004

Union of India and
others

APPELLANT

Vs

Central Administrative
Tribunal Allahabad and
others

RESPONDENT

Date of Decision: July 10, 2012

Acts Referred:

- Administrative Tribunals Act, 1985 - Section 20, 21

Citation: (2012) 10 ADJ 316 : (2013) 136 FLR 799

Hon'ble Judges: S.P. Mehrotra, J; Het Singh Yadav, J

Bench: Division Bench

Advocate: Tarun Verma, for the Appellant; B.P. Srivastava, Bhupendra Pandey, Lakshman Tripathi and S.C., for the Respondent

Final Decision: Dismissed

Judgement

1. The petitioners have filed the present Writ Petition, inter alia, praying for quashing the Order dated 30th January, 2004 passed by the Central Administrative Tribunal (in short "the Tribunal") on Original Application No. 925 of 1997 filed by the respondent No. 2 herein. It appears that the respondent No. 2 herein was initially engaged as a casual labourer by the petitioners herein from time to time, the details whereof have been given in paragraph Nos. 4 (a) to 4 (i) of the Original Application filed before the Tribunal. A perusal of paragraph Nos. 6, 7, 8 and 9 of the Counter-affidavit filed on behalf of the petitioners herein before the Tribunal shows that the averments made in paragraph Nos. 4 (a) to (i) of the Original Application have not been specifically denied. So far as working of the respondent No. 2 herein as casual labourer was concerned, only vague allegations have been made regarding lack of authority with the concerned officers for issuing certificates enclosed with the Original Application.

2. The respondent No. 2 herein was given the status of temporary employee by the letter dated 3rd January, 1995 (Annexure 9 to the Original Application filed before the Tribunal). The respondent No. 2 herein was also medically examined on 24th January 1996. The averments made in this regard in paragraph Nos. 4 (i) and 4(j) of the Original Application have not been denied in paragraph Nos. 9 and 10 of the Counter-affidavit filed before the Tribunal.

3. The Tribunal in the impugned order has stated that the respondent No. 2 herein was on the roll as on 30th April, 1996.

4. The Railway Board issued a letter dated 30th September 1996, wherein it was indicated that all the 56,000 (approximate) casual labourers on roll as on 30th April, 1996 were to be regularized by the year 1997-98. The Railways were required to draw an action-plan to ensure that the absorption of all casual labourers on roll was completed by December, 1997 so that a position of no casual labourer on roll was achieved by that date.

5. The Petitioner, thereupon filed the aforesaid Original Application, inter alia, praying that the services of the Petitioner be regularized.

6. The Tribunal by the impugned Order dated 30.1.2004 allowed the aforesaid Original Application.

7. The Tribunal in the impugned Order noted in detail the contents of the said letter dated 30th September, 2006, issued by the Railway-Board, including the norms for complete absorption of casual labourers as mentioned in the said letter, and also examined the facts of the present case, and thereafter allowed the aforesaid Original Application filed by the respondent No. 2 herein. The Tribunal, inter alia, directed as under:

...The O.A. succeeds and is allowed. The respondents are directed to regularize the applicant to a Group "D" post either in the concerned department or in any other department within a period of three months from the date of receipt a copy of this order. No costs.

Thereafter the petitioners herein have filed the present Writ Petition seeking the reliefs as mentioned above.

8. We have heard Sri Tarun Verma, learned counsel for the petitioners and Sri Laxman Trtipathi, learned counsel for the respondent No. 2 and perused the record.

9. Sri Tarun Verma, learned counsel for the petitioners submits that the Original Application filed by the respondent No. 2 herein before the Tribunal was barred by limitation as provided in Section 21 of the Administrative Tribunals Act 1985 (in short "the Act").

10. Learned counsel for the petitioners refers to the averments made in paragraph No. 5 of the Counter-affidavit filed on behalf of the petitioners herein before the Tribunal wherein the petitioners herein averred that the respondent No. 2 herein had ceased to work in the year 1985 while the Original Application was filed in the year 1997.

11. We have considered the submissions made by the learned counsel for the petitioners herein, and we find ourselves unable to accept the same.

12. As its evident from the averments made in paragraph Nos. 4 (a) to 4 (i) of the Original Application filed before the Tribunal, the respondent No. 2 herein continued to be engaged as casual labourer from time to time even after 1985. In fact, by the order dated 3rd January, 1995, the respondent No. 2 herein was granted status of temporary employee. He was medically examined on 24th January, 1996.

13. In paragraph Nos. 4 (k) and 4 (m) of the Original Application filed before the Tribunal, the respondent No. 2 herein made averments regarding his working in the year 1997. The said averments have not been denied in paragraph 11 of the Counter-affidavit filed on behalf of the petitioners herein before the Tribunal.

It is thus evident that the respondent No. 2 herein continued to be engaged as casual labourer even after the year 1985, and the averments made in paragraph No. 5 of the Counter-affidavit filed on behalf of the petitioners herein before the Tribunal regarding the respondent No. 2 herein ceasing to work in the year 1985 were not correct. The letter of the Railway-Board was issued on 30th September, 1996. The Original Application was filed before the Tribunal in the month of August, 1997.

14. Section 21 of the Act provides as under:

21. Limitation.--(1) A Tribunal shall not admit an application,--

(a) in a case where a final order such as is mentioned in clause (a) of sub-section (2) of Section 20 has been made in connection with the grievance unless the application is made, within one year from the date on which such final order has been made;

(b) in a case where an appeal or representation such as is mentioned in clause (b) of sub-section (2) of Section 20 has been made and a period of six months had expired thereafter without such final order having been made, within one year from the date of expiry of the said period of six months.

(2) Notwithstanding anything contained in sub-section (1), where--

(a) the grievance in respect of which an application is made had arisen by reason of any order made at any time during the period of three years immediately preceding the date on which the jurisdiction, powers and authority of the Tribunal becomes exercisable under this Act in respect of the matter to which such order relates; and

(b) no proceedings for the redressal of such grievance had been commenced before the said date before any High Court,

the application shall be entertained by the Tribunal if it is made within the period referred to in clause (a), or, as the case may be, clause (b), of sub-section (1) or within a period of six months from the said date, whichever period expires later.

(3) Notwithstanding anything contained in sub-section (1) or sub-section (2), an application may be admitted after the period of one year specified in clause (a) or clause (b) of subsection (1) or, as the case may be, the period of six months specified in subsection (2), if the applicant satisfies the Tribunal that he had sufficient cause for not making the application within such period.

15. From a perusal of the Section quoted above, it appears that the period of limitation for filing Original Application before the Tribunal is one year from the date on which the cause of action arises. In the present case, the order was issued by the Railway Board on 30th September, 1996. The Original Application was filed in the month of August, 1997. Thus, the Original Application filed by the respondent No. 2 herein was within the limitation period as per the provisions of Section 21 of the Act.

16. No illegality has been shown in the impugned order passed by the Tribunal. Having perused the impugned order, we agree with the reasonings and conclusions drawn by the Tribunal. The Writ Petition filed by the petitioners herein lacks merits, and the same is liable to be dismissed. The Writ Petition is accordingly dismissed. However, on the facts and in the circumstances of the case, there will be no order as to costs.