

THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL
CUM LABOUR COURT, JABALPUR

NO. CGIT/LC/C/16/2005

Present: P.K.Srivastava
H.J.S. (Retd)

Ram Narayan S/o Mangilal

Applicant

Versus

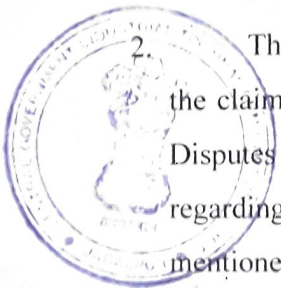
DOT,BSNL, District Shahjapur

Respondent

ORDER

(Passed on 22-7-2022)

1. The case has been registered on the basis of an application under Section 33(C)(2) of the Industrial Disputes Act, 1947, hereinafter referred to by the word 'Act' has been filed by applicant/workman Ram Narayan against DOT, BSNL, Shahjapur with a claim that this applicant was employed with the management as casual employee during the period 1989 to 1992. The Central Administrative Tribunal in the case of Dhaniram & Others (details not given) held that the casual employees who had completed 240 days in any calendar year prior to their date of retrenchment are entitled to be absorbed on regular basis and their termination from service was held bad in law by Tribunal. *This judgment is judgement in rem* and cover the claim of the applicant. It is further claimed that the Management has deliberately not taken the applicant workman in service inspite of this judgement. It has been accordingly, prayed that it be held that the workman is entitled to be in service and entitled for back wages.



The Management has countered the claim with a case that firstly, the claim is not maintainable under Section 33-C(2) of the Industrial Disputes Act, 1947 and secondly, since no details of this workman regarding the period of his engagement and place has been specifically mentioned, the management is not in a position to be very specific in denial of the claim but according to the management, the aforesaid.

For

Judgement of Central Administrative Tribunal referred to from the side of the applicant/workman was relating only to those casual labours who had completed more than 240 days in a calendar year prior to 22-6-1988 without break were deemed to be in continuous service. According to the management, the applicant workman was never engaged continuously for a period of 240 days or more in a year. Further according to the Management, the claim is barred by delays and laches as it has been filed after 17 years of cause of action. Accordingly, the Management has prayed that the petition be dismissed.

3. The applicants have not lead any evidence documentary or oral. The management has filed affidavit of its witness Shri N.K., Nandanvar, Assistant General Manager, Legal which is on record. None was present at the time of argument. Parties were given chance to file written argument, which they did not avail. I have gone through the record.
4. The claim of the applicant/workmen have been disputed by the Management on the grounds firstly, that it is delayed and secondly, the applicant/workman never worked for 240 days and thirdly this claim is not cognizable under Section 33-C (2) of the Act. Provisions of Section 33-C(2) of the Act is being reproduced as follows:-


[33-C(2). Recovery of money due from an employer.-

- (1) Where any money is due to a workman from an employer under a settlement or an award or under the provisions of 4*[Chapter VA or Chapter VB], the workman himself or any other person authorised by him in writing in this behalf, or, in the case of the death of the workman, his assignee or heirs may, without prejudice to any other mode of recovery, make an application to the appropriate Government for the recovery of the money due to him, and if the appropriate Government is satisfied that any money is so due, it shall issue a certificate for that amount to the Collector who shall proceed to recover the same in the same manner as an arrear of land revenue: Provided that every such application shall be made within one year from the date on which the money became due to the workman from the employer: Provided further that any such application may be entertained after the expiry of the said period of one year, if the appropriate Government is satisfied that the applicant



7. In the light of the above discussion and findings, the petition deserves to be dismissed and is dismissed accordingly.

No order as to costs.


(P.K.SRIVASTAVA)
PRESIDING OFFICER

Date:-22-7-2022

