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Central Administrative Tribunal
Principal Bench

OA No.1402/2001

New Delhi, this the 27th day Aug- 2002.

Hon'ble Shri Govindan S. Tampi, Member (A)

Bharat Ram
S/o Lakhn Lal Mishra
R/o House No.18/102
Kalyanpuri
Delhi-110091.

..... Applicant.

(Shri Atin Rastogi, Advocate)

Versus

1. Union of India
C/o Secretary
Ministry of Railways
New Delhi.
2. The General Manager
Northern Railways
Baroda House
New Delhi-110001.
3. DRM
DRM Office
New Delhi.
4. The Sr. Divisional Mechanical Engineer
(C&W), DRM Office
New Delhi.

.... Respondents.

(Shri R.P.Agarwal, Advocate)

ORDER

By Shri Govindan S.Tampi, Member (A)

Bharat Ram Vs. ~~Union of India & Ors.~~ applicant in this OA seeks regularisation as driver along with grant of wages of the driver since 1995 as well as the status of permanent Khalasi, with his full service.

2. Shri Atin Rastogi, leaned proxy counsel appeared for the applicant while Shri R.P.Agarwal represented the respondents.
3. Applicant who joined as a Casual Labourer on 19.4.1983, came over to Delhi on 24.04.1995 and had been discharging the duties of driver since then. Though he has been performing the duties of driver, he had not been given the wages thereof. This kind of exploitation had been frowned upon by the Hon'ble Supreme Court of India. Further the service rendered by him in Suratgarh between April, 1983 and April, 1995 has not been included as proper service. Denial of chances to the applicant

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was arbitrary, more so as vacancies of driver existed in Delhi and Lucknow Division. Thus inspite of his performing duties as driver for a long time, by driving the vehicle as well as maintaining log book, he has only been paid driving allowance on muster (haziri) basis. This injustice would be ^{obviated} ~~object~~ only by regularising him as well as promoting him as JE II and CFO with retrospective effect. These pleas were forcefully reiterated by Shri Atin Rastogi who also submitted an affidavit that he had been working for more than 240 days from 1998 onward.

4. Replying on behalf of the respondents and arguing their case, Shri R P. Agarwal points out that the pleas raised by the applicant were wrong. While between 1995 and 1997, he had been engaged as driver on need based arrangement, his was not a regular engagement. He had been paid driving allowance ^{on} ~~for~~ the days he worked ~~as~~ such and there was no basis for placing him as ~~driver's~~ scale. He has also not produced any evidence that he was engaged as a casual labourer on 19.4.1983, ~~as~~ claimed by him. Respondents would consider appointing him as Khalasi in his ~~next~~ turn. His request for appointment as driver, JE II, CFO etc. has no basis and cannot be considered. OA merits dismissal according to Shri Agarwal.

5. I have carefully considered the matter. The applicant's ~~pleas~~ ^{plea} that he should be treated as Driver, JE II and CFO in succession, as he has been making in those capacities, respondents argue that only relief which can be considered related to appointment as Khalasi in his turn and in accordance with rules. ~~As~~ ^{As} correctly pointed out by the respondents, the applicant had not produced any evidence of having been a casual labourer since 1983. The additional affidavit filed by the applicant on 8.08.2002 relates only to 1998 and thereafter, ~~that~~ ^{that} being the case grant of temporary status (regularisation) to the applicant cannot be permitted. ^{in terms of DOP's scheme} It is admitted by the respondents that the applicant was engaged ~~as~~ ^{on} need basis, on payment of driver's allowances. Nothing further is permissible in the circumstances

of the case. The multiple / alternate reliefs claimed by the applicant are incapable of being granted, in the absence of any evidence supporting their case.

6. In the above view of the matter, I find that the applicant has not made out any case for my interference. OA, therefore, fails and is accordingly dismissed. No costs.

(Govindan S. Tampi)
Member (A)

/shyam/