

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH : NEW DELHI

DA No. 286/2001

Date of decision: 11.01.2002

Shri Mangat Singh .. Applicant

(By Advocate: Shri B.S. Mainee)

versus

Union of India & Ors. .. Respondents

(By Advocate: Shri B.S. Jain)

CORAM:

The Hon'ble Shri M.P. Singh, Member (A)

1. To be referred to the reporter or not? Yes
2. Whether it needs to be circulated to other Benches of the Tribunal?

M.P. Singh
(M.P. Singh)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA No.286/2001

New Delhi, this 11 th day of JANUARY, 2001

Hon'ble Shri M.P. Singh, Member(A)

(15)

Mangat Singh
ex. casual Gangman
Under PWI/Northern Railway, Hapur .. Applicant
(By Shri B.S.Mainee, Advocate)

versus

Union of India, through

1. General Manager
Northern Railway
Baroda House, New Delhi
2. Divisional Railway Manager
Northern Railway, Moradabad
3. Divisional Engineer(HQ)
Northern Railway, Moradabad
4. Permanent Way Inspector
Northern Railway, Hapur .. Respondents

(By Shri B.S. Jain, Advocate)

ORDER

The applicant is before this Tribunal in fourth round of litigation seeking a direction to the respondents to re-engage him as casual labour with all consequential benefits.

2. Briefly stated, the applicant was engaged as a casual labour under PWI, Northern Railway, Amroha from 15.10.73 to 14.8.74 and again from 14.2.83 to 14.9.84 after which his services were disengaged. He challenged his disengagement by filing OA 2712/92 which was disposed by order dated 15.10.93 with a direction to the respondents to offer him a suitable post as and when vacancy arises, strictly in accordance with his position in the Live Casual Labour Register (LCLR, for short). Respondents filed RA 65/94 against this order but the same was dismissed on 4.3.1994.

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(16)

3. Thereafter, the applicant was allowed to join service on 25.4.94. However, his services were terminated by an order dated 24.5.96, on the ground that he was re-engaged erroneously, after giving him show cause notice on 4.4.96 to that effect. Aggrieved by this, he filed another OA No.1361/96 which was disposed of by order dated 22.10.97 with the direction that respondents shall consider re-engaging the applicant against available vacancy before considering the claim of any of his juniors and in the event any of his juniors continues to work under any court orders, the applicant will have the right to be informed of the court's order under which they are continued to work.

4. When the respondents failed to comply with the aforesaid direction, applicant filed CP No.84/1998 which was dismissed by an order dated 28.7.2000, based on the reply affidavit filed by the respondents to the effect that Tribunal's order has been complied with and the seniority of the applicant has been fixed at S1.No.153-A in LCLR and that juniors to the applicant were working due to interim orders passed by the Tribunal, leaving it open to the applicant to file a fresh OA by bringing all the necessary facts to the notice of the court. That is how the applicant is before this Tribunal again seeking the aforesaid relief.

5. Respondents in their reply, while opposing the OA, have stated that the applicant was re-engaged on 25.4.94 as Gangman by AEN/Hapur erroneously ignoring the claim



63
of the persons senior to him. This mistake came to the notice during DRM's inspection on 8.12.95 and it was decided to rectify the said mistake. Disciplinary proceedings have been initiated against the officer concerned who re-engaged the applicant ignoring the seniority position. However, the applicant is in the priority list as per his working days. In the light of these submissions, the OA deserves to be dismissed.

6. Heard the learned counsel for the parties and perused the records.

7. During the course of the arguments, the learned counsel for the applicant submitted that the applicant had filed an affidavit alongwith CP 84/98 that three persons namely Jameel, Chidda Singh and Sheo Raj Singh, who were junior to him were still working while the applicant was disengaged. However, DPO, Moradabad filed an affidavit stating that these persons were working due to interim orders passed by the court. Applicant had also produced a letter dated 25.11.98 issued by the respondents showing that one Shri Joda Singh was re-engaged although the aforesaid three persons were still continuing due to court's interim direction. On the direction of the Tribunal, respondents produced order dated 29.4.93 in the case of Chhidha Singh Vs. UOI in which the Tribunal only directed the respondents to consider the case of the applicant therein and there was no interim order. Respondents also produced another order dated 9.8.98 of the Allahabad Bench of the Tribunal in which interim order was granted in case of Sheo Raj Singh. Applicant was terminated on 24.5.96

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(18)

while interim order in case of Sheraj Singh was passed only on 9.8.1998. Respondents thus had failed to produce any interim order in respect of the aforesaid three persons. The counsel would further submit all these three persons, admittedly junior to the applicant, have been re-engaged.

8. On the other hand, the learned counsel for the respondents reiterated that the aforesaid three persons are working on date as per the interim orders of this Tribunal in OA No.378/2001 and OA No.1143/98. The learned counsel was asked to produce the copies of the interim orders in the aforesaid OAs, which he produced on 4.01.2002 in the form of additional counter reply.

9. It is evident from the additional counter reply that show cause notices were issued to Jamil and Chhidda Singh on 27.3.96 and their services were terminated on 24.5.96. They filed OA No.1310/96 and OA No.1355/96 and obtained an ad-interim order on 25.6.96 and 28.6.99 respectively to maintain status-quo. The said two OAs, alongwith another OA No. 1288/1996, were disposed of by a common order dated 15.2.2000, the operative portion of which reads as under:

"8. In the result, the OAs are allowed. The impugned orders of termination of services are quashed. The respondents are, however, granted liberty to issue fresh show cause notice along with details of the seniors who are waiting for engagement, to enable the applicants to answer the allegations against them and thereafter to proceed in accordance with law"

Pursuant to this, Shri Jamil and Chhidda Singh were issued show cause notices on 26.5.2000 and their services were terminated on 10.8.2000. But they again

21

approached the Tribunal through OA No.378/2001 (Khacheru Singh & Ors.) and got an ad-interim order on 23.2.2001 to maintain status quo. In view of this, their services could not be terminated as they filed OAs before this Tribunal and obtained ad-interim orders. (19)

10. In the case of Sheoraj Singh, he filed OA No.1351/94 and the same was allowed by order dated 21.4.95. Thereafter, he was issued show cause notice on 29.7.98 and his services were terminated on 7.9.98. But he has filed OA No.1143/98 before the Allahabad Bench of the Tribunal and obtained status-quo order on 7.11.98. The said OA is pending adjudication before that Bench.

11. From the additional counter reply filed by the respondents, it is evident the services that S/Shri Jamil, Chhidda Singh and Sheoraj Singh were not terminated as per the stay orders obtained by them, as rightly contended by the learned counsel for respondents, whereas there was no such stay order in the case of the applicant herein, as is clear from the orders passed by this Tribunal. In other words, in OA No.2712/92 filed by the applicant which was decided on 15.10.93, the direction was to the effect that "Once it is held that, in the eyes of law, the petitioner continues to be on the LCLR, it is obligatory on the respondents to offer him a suitable post as and when vacancy arises, strictly in accordance with the serial maintained in the register". Again in the next OA No.1361/96 filed by the applicant which was decided on 22.10.97, the direction was to the effect that respondent shall consider re-engaging the petitioner against available vacancy

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before considering the claim of any of his juniors except by those engaged by court orders, as has already been mentioned in paras 2 and 3 above.

12. In view of the established position that Jamil, Chhidda Singh and Sheoraj Singh have not been terminated because of the stay orders obtained by them and no stay order has been granted to the applicant by this Tribunal, I am unable to grant the relief prayed for by the applicant. In the result, the OA is dismissed, leaving the parties to bear their own costs.

M.P. Singh
(M.P. Singh)
Member(A)

/gtv/