

(11)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA 2544/1999

New Delhi this the 24th day of January, 2001.
Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)

Awtar Krishan Sharma,
S/O Sh.Pt. Murari Lal Sharma
R/O Patti Mehar, Baraut(Baghpat)
Pin-250601

.. Applicant

(By Advocate Shri U. Srivastava)

Versus

Union of India, through

1. The General Manager,
Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Estate Entry Road, DRM Office,
New Delhi.

.. Respondents

(By Advocate Shri B.S. Jain)

O R D E R (ORAL)

Hon'ble Smt. Lakshmi Swaminathan, Vice Chairman(J)

The applicant is aggrieved that in spite of the fact that his name has been included at Serial No.82 in the Casual Labour Live Register(CLLR) by the respondents, he has not been re-engaged or absorbed as casual labourer. He has impugned the reply given by the respondents dated 4.10.1999 to his earlier representation dated 6.4.1999 in the present OA. The main contention of Shri U. Srivastava, learned counsel is that the respondents have themselves admitted in the counter affidavit filed by them in CP 119/1995 in Registration case No.463/1991, that the name of the applicant had been entered in the CLLR and have also averred that the applicant shall be further engaged or considered for screening for regular absorption as per his turn, on the basis of his place in the CLLR.

13

According to him, the respondents have placed the name of the applicant at Serial No.82 in the CLLR but in spite of that, the applicant has neither been re-engaged or absorbed. His contention is that once the name of the applicant has been placed in the CLLR, the respondents cannot take the plea of over-age or that he is not entitled for age relaxation as stated by them in the impugned order dated 4.10.1999.

2. The respondents have apparently placed the name of the applicant in the CLLR ~~was~~ submitted by them before the Tribunal in CP 119/1995 (Supra), in furtherance to the Tribunal's order dated 24.1.1995 in OA 463/1991 (Allahabad Bench Annexure A-2). Shri Srivastava, learned counsel has relied on Paragraph 2006(iii) of the IREM, Vol.II, copy placed at Annexure A-2 to the rejoinder. He, therefore, submits that in the circumstances, the impugned rejection letter dated 4.10.1999 may be quashed and set aside with a direction to the respondents to re-engage the applicant in service. At the time of hearing, learned counsel has, however, submitted that he does not press ^{the} consequential benefits.

3. Shri B.S. Jain, learned counsel has submitted that the applicant is not entitled to be re-engaged as he is over-aged by 13 years ^{which} ~~as it~~ is clear from the impugned letter dated 4.10.1999. He has, therefore, submitted that the applicant is not entitled to any relief. He has submitted that the applicant cannot rely on the provisions of Paragraph 2006(iii) because relaxation can be given when casual labour has been

enrolled within the prescribed age limit, which is not the position in the present case, as admittedly he was over-aged at the relevant time. Learned counsel has, therefore, submitted that the OA may be dismissed.

4. I have carefully considered the pleadings and the submissions made by the learned counsel for the parties.

5. Paragraph 2006(iii) of IREM, Vol.II reads as follows:-

"As long as it is established that a casual labour has been enrolled within the prescribed age limit, relaxation in upper age limit at the time of actual absorption should be automatic and guided by this factor. In old cases where the age limit was not observed, relaxation of age should be considered sympathetically. The DRMs may exercise such powers to grant relaxation in age limit."

It is seen from the above provision that the casual labour who has been enrolled within the age limit is entitled for relaxation in upper age limit at the time of actual absorption which is stated to be automatic. It has been further clarified in that Paragraph that in old cases where the age limit was not observed, relaxation of age should be considered sympathetically.

6. In the present case, admittedly the respondents have entered the name of the applicant in the CLLR and have also submitted before the Tribunal in CP 119/1995 that he shall be further engaged or considered for screening for regular absorption as per his turn, on the basis of his place in the CLLR.

In the facts and circumstances of the case, therefore, the contention of the respondents in the impugned letter dated 4.10.99

(14)

that the applicant is over aged as per the Recruitment Rules is contrary to their own stand before the Tribunal which cannot, therefore, be accepted as this would mean that they are backing out ^{from their} own stand taken by ^{them} earlier. The contention of Shri B.S. Jain, learned counsel that relaxation of upper age limit for absorption as provided in Paragraph 2006(iii) of IREM can be given only if the applicant's name has been entered in the CLLR within the prescribed age cannot also be accepted in the facts and circumstances of the present case. Admittedly, the applicant's name has already been entered in the CLLR in terms of the Tribunal's order in OA 463/1991 (Allahabad Bench). Further the same Paragraph provides that relaxation should be considered sympathetically and in the facts of the case, there appears to be no reason why the respondents should not have extended the benefit of age relaxation to the applicant in terms of these provisions.

7. In the result for the reasons given above, the impugned letter dated 14.10.1999 is quashed and set aside. The respondents shall consider re-engagement of the applicant in service as casual labourer in terms of the relevant rules and instructions, keeping in view the observations of the Tribunal in OA 463/1991. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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