

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI
OA 981/99

New Delhi this the 9th day of February, 2000

Hon'ble Smt. Lakshmi Swaminathan, Member(J)

Vikas Chander
S/O Sh. Bhagirath Lal
R/O Ritu Electrical,
RZ/B-218 (Palam Colony)
Raj Nagar-I, New Delhi-45

.. Applicant

(By Advocate Shri U. Srivastava)

Versus

1. Union of India through the
Genl. Manager, Northern Railway,
Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Ambala,
Haryana.
3. The P.W.I.
Northern Railway, Uklana,
Haryana.

.. Respondents

(By Advocate Sh. B.K. Aggarwal, learned
counsel through proxy counsel Sh. Rajeev
Bansal)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member(J)

The applicant has challenged the order passed by the respondents dated 6.11.1998 (Ann.A.1) and the order dated 2.2.1999 (Annexure A-2) by which they have rejected his claim for inclusion of his name in the Live Casual Labour Register (LCLR).

2. Admittedly, the applicant was engaged by the respondents as casual labourer w.e.f. 1.11.83 to 14.11.83 for a period of 14 days. Applicant relies on certain orders issued by the A.E.N. Office, Ludhiana (Annexures A-5 and A/6). In these orders dated 26.3.84 and 2.5.87, the Assistant Engineer, Northern Railway, Ludhiana has stated that the applicant had worked as casual labourer at Hissar for the aforesaid period and hence his name has been included in LCLR of P.W.I. Uklana at Serial No. 24 - i.e. ^{by} Respondent 3. The subsequent order dated 2.5.87 refers to the applicant's representation dated 20.2.1987, and ^{he} has informed that his name has ^{been} restored for

including the name in LCLR as per PS 8989 on the same position at Serial No.24. Thereafter the respondents had issued impugned orders (Annexure A-1 and A-2), (English translations of the operative parts have been given in Paragraphs 4.12 and 4.14 of the OA). The respondents have cancelled the placement of the applicant's name in the LCLR by the impugned order (Annexure A-1). They have stated that his name cannot be included in the LCLR because of the Railway Board order/P.S. 8648^{dated 9.1.1985} that those casual labourers who had worked for one week or two weeks, like the applicant, cannot be included in the LCLR nor be issued any casual labour card.

~~PS 8648 issued by the respondents dated 9.1.1985~~. In the impugned Order (Annexure A-2) ^{have} they again confirmed that the applicant had worked only for a period from 1.11.83 to 14.11.83 as casual labourer according to the verification from PWI Uklana, R-3. In terms of the aforesaid PS 8648, they have stated that his name cannot be included in the LCLR. They have also referred to PS 9191-9195 which deal with casual labourers who had been disengaged or terminated before 1.1.1981.

3. Shri Rajeev Bansal, learned proxy counsel for the respondents has produced the relevant PS 8648 and 9191 which have been issued on 10.12.1984 and 2.3.1987, respectively, which are placed on record. He states that in spite of several attempts, the respondents have not given him a copy of the PS 8989 on the basis of which the letter dated 2.5.87 had been issued by the AEN Office, Ludhiana, in which it has been mentioned that the applicant's name has been restored for including the name in the LCLR as per this PS.

4. Shri U. Srivastava, learned counsel for the applicant has drawn attention to another letter issued from the O/O the DRM, Ambala, dated 8.6.98 (Ann.A.3). The relevant portion of this letter reads as follows:-

" This is to inform that the working period of the applicant as casual labour from 1.11.83 to 14.11.83 under CPWI/Uklana has been got verified and found correct as per record. The applicant may be considered for engagement as Safaiwala/C&W cleaner grade Rs.2550-3200(RS) in the Ambala Division as the other

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casual labours whose names are on casual labour live register having less number of working days than the applicant are being called for consideration for engagement as Safaiwala/C&W Cleaner grade Rs.2550-3200(RS) in Ambala Division."

He has, therefore, submitted that the respondents cannot rely upon the subsequent circulars or letters issued by the Railway Board, namely, PS 8648 & 9191 issued on 10.12.1984 and 2.3.87, respectively. His contention is that since the applicant has worked admittedly for 14 days and his name has already been included in the LCLR by the AEN Office, Ludhiana in 1984 and restored by the same office ^{on} the same position in LCLR by their subsequent letter issued on 2.5.87, the respondents cannot now state that the applicant's name should not be included in the LCLR for the reasons given above. He has, therefore, submitted that Annexure A-1 order and Annexure A-2 order may be quashed and set aside and ~~directed~~ ^{directed B} the respondents to re-engage the applicant in preference to freshers and those with lesser service as they have engaged casual labourers, as ~~it~~ ^{is} evident from Annexure A-3 letter.

5. Although it is noticed that the respondents have stated that the letters issued by the AEN Office, Ludhiana followed by letter dated 2.5.87 have been issued by ~~another~~ ^{another} authority who is not competent to do so, but at the same time they have not placed on record as to what action, if any, has been taken against the officers who have not complied with the relevant rules and instructions. Further it is noted that PS 8648 relied upon by the respondents has been issued on 10.12.1984 in which it has been stated that the M/O Railways has decided that in case of fresh faces engaged for work taken up during emergencies which are necessarily of a very limited duration, like a week or a fortnight, no casual labour cards need be issued and their names need not also be entered in the casual labour register.

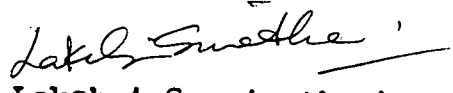
6. In the present case the applicant has worked with the

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respondents as casual labourer w.e.f. 1.11.83 to 14.11.83 i.e. before issuance of PS 8648 dated 9.1.1985. That being the case it cannot also be stated that the authority who had issued letters dated 26.3.1984 informing the applicant that his name has been placed in the LCLR at Serial No.24 has not been done in accordance with the relevant instructions, as no instructions have been placed on record to the contrary. Obviously the respondents cannot rely on the subsequent PS issued by the Railway Board to justify their action that the applicant could not be placed in the LCLR at the relevant time. It is also relevant to note from the letter issued by the DRM, Ambala, dated 8.6.98, relevant portion of that letter quoted in para 4 above, that the applicant's case had been considered for engagement in that Division as other casual labourers whose names are on casual labour live register having lesser number of working days than the applicant, are being called for consideration for engagement. It also shows that at the relevant time persons having one week or two weeks service as casual labourers, have been registered in the LCLR and they were also offered appointment.

7. In the result, in the particular facts and circumstances of the case, which will not be quoted as a precedent in other cases, OA succeeds and is allowed with the following directions:-

Annexures A-1 and A-2 orders are quashed and set aside. Respondents are directed to take further action in the light of the facts mentioned above, that the applicant's name has been placed in LCLR and re-engage him in the Ambala Division where he was working earlier, as casual labourer. This will be against any future vacancy, subject to his fulfilment of other eligibility conditions according to the relevant rules and instructions, in preference to those with lesser service. No order as to costs.


(Smt. Lakshmi Swaminathan)
Member (J)