

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI.

OA 2252/98

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New Delhi this the 21st day of January, 2000

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

Shri Suresh Singh,
S/O Karan Singh
Ex.Casual Labour
under Station Superintendent
Bharthana & Etava, Northern
Railway, Allahabad.

R/O H.No.1/2760, Mandoli Road,
Near Shanti Building, Ram Nagar,
Shahdara, Delhi.

.. Applicant

(By Advocate Shri B.S. Maine)

versus

Union of India through

1. The General Manager,
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manger,
Northern Railway, Allahabad.

.. Respondents

(By Advocate Shri B.S. Jain)

O R D E R (ORAL)

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

The grievance of the applicant is that although admittedly he had worked for more than 363 days as on 1.5.1988, he has not been regularised in Group 'D' post although persons junior to him had been so regularised.

2. I have heard both the learned counsel for the parties and perused the records

3. From the document placed at Ann.A.2, it is seen that the applicant was called for screening by the respondents letter dated 23.12.1988. In this letter, it is stated that the applicant had worked with the respondents upto 1.5.1988 as 363 days. This has also not been disputed by the respondents in their reply. The main contention of Shri B.S. Maine, learned counsel for the applicant is that in other cases the applicants who have rendered more than 337 days upto 1.5.1988 which was the cut off mark, the respondents have regularised their services.

(3)

The main contention of the learned counsel for the respondents is that the applicant was overaged at the time of his engagement as his date of birth was 10.1.56. They have stated that he was engaged on 19.4.85 when he was 29 years 3 months and 9 days and therefore, he was ineligible for consideration for regularisation. Shri Maine, learned counsel has, ^{however, P.} ~~further~~ disputed this, stating that the applicant was, in fact, engaged in 1979 and had worked upto 1982(Annexure A-4). He has also relied on the judgement of the Tribunal in OA 1821/92 decided on 6.11.1997. In this judgement, the Tribunal had directed the respondents to verify their records and convene the Screening Committee. In that case, some of the applicants also had served less than 337 days.

4. In the present case, it is noted that the respondents have not denied that the applicant was one of those called for screening by their letter dated 23.12.1988. It is also not denied that he had put in 363 days of service. I am not impressed by the averments made in the reply filed by the respondents that the appointment is void ab-initio because the applicant is over-aged on the date when he was engaged as casual labourer on 19.4.85. This is particularly so that even by the letter dated 23.12.1988 i.e. after more than 3½ years, they have called him for screening and they admit the fact that the applicant had put in 363 days of service. Therefore, this plea cannot be taken by the respondents, especially when nothing has been placed on record to show as to what action, if any has been taken by them against the erring officials, to say that the applicant was not eligible at the time of his initial appointment. Besides that, they have not mentioned that the applicant had himself mis-represented his date of birth or adopted any fraudulent means to secure his appointment.

5. Having regard to the facts and circumstances of the

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case and the judgement of the Tribunal in OA 1821/92, this OA is allowed by the order below. However, this order has been passed in the particular facts and circumstances of this case and shall not be treated as a precedent in other cases. 14

The respondents may consider re-engaging the applicant as casual labourer in any suitable job if there is work, and regularise him after screening him in preference to outsiders and juniors. They shall also take into account his past service while regularising him. No order as to costs.

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

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