

## CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No.2302 of 1998  
M.A.No.2447/98

New Delhi, this the 17<sup>th</sup> day of December, 1999

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

Smt.Om Shri Devi  
Widow of late Shri Arvind Kumar  
Ex. Lady Water man  
under Station Superintendent  
Northern Railway  
Tundla

r/o 138, Purani Kundali  
Harizan Basti, Shakarpur  
Delhi-110092

-APPLICANT

(By Advocate: Shri B.S.Mainee)

Versus

Union of India: Through

1. The General Manager  
Northern Railway,  
Baroda House, New Delhi

2. The Divisional Railway Manager,  
Northern Railway,  
Allahabad(U.P.)

-RESPONDENTS

(By Advocate: Shri B.S.Jain)

O R D E R

By Hon'ble Mr.Kuldip Singh, Member(Judl)

In this O.A., the applicant is aggrieved by the failure of the respondents to re-engage her services as a casual labour/Waterman and regularise her services although a number of juniors have been working and some of them have been regularised also.

2. Facts in brief are that the applicant was given a job of casual hot weather waterman at Tundla where she worked from 12.6.85 to 14.8.91 for intermittent periods and, thus, she claims to have worked for 718 days during this period. She has stated that after 1991, her services have not been engaged. She also states that in

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terms of the letter dated 23.12.88, the D.R.M. Allahabad issued a list of 805 casual labourers who were to be screened on the basis of seniority of working days. The name of the applicant figured in that list at serial number 521 and though, she is stated to have worked for 291 days for the period upto 1.5.88 but she had actually worked for 299 days. Even after the screening, the applicant was not placed on the panel despite the fact that she has made several representations to the respondents. She has stated that some of her colleagues had filed an O.A.1821/92 before the Central Administrative Tribunal entitled Nihal Singh & ors. vs. Union of India & ors., which was allowed. She has prayed that the benefit of the judgement in the said case should also be extended to her.

3. The respondents have contested the O.A. by filing a reply. I have heard the learned counsel for the parties and gone through the records.

4. The main contention of the applicant's counsel is that since in the similar matter in OA-1821/92, the benefit has been given to the applicants therein so in the present case also, the applicant is entitled for the same benefits. To buttress his contention, he particularly referred to the following portion of the judgement in OA-1821/92 -

"(W)ith regard to the other applicants neither screened nor absorbed I direct that they shall be offered casual jobs in any of the offices of respondent no.3, namely, Divisional Railway Manager, Northern Railway, Allahabad within six weeks from the date of issue of a copy of this order if a vacancy is available

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and if there is no senior to the applicants in the casual labour register competing the same."

5. The above O.A. was allowed to the extent that even those whose names were not enrolled in the Live Casual Labour Register and those who were not even screened or absorbed, the Tribunal had ordered the respondents to offer them job, if available.

6. In reply to this, learned counsel for the respondents submitted that as per the applicant's own version, she has not worked for 337 days as on 1.5.88 which is essential for placement of her name in the panel. Learned counsel for the respondents further submitted that the applicant has not been able to produce the Casual Labour Card which is reliable and authentic document to prove that a person has actually worked as casual labour in the Railways.

7. This aspect has been clearly dealt with in the case of Nihal Singh (supra). Even in that case, the certificates of engagements issued by the respective Station Masters had been believed to be true and the fact that even the respondents have admitted in their reply that the applicant has worked for 298 days, goes to show that there might be some irregularity in the appointment letter but it cannot be said to be void ab initio because of the lacking of the competence of the authority who had appointed the applicant or had engaged her as casual labour. But the fact, that she has been given the job even after 1988 and according to para 4.1 of the O.A., the applicant has worked for 718 days for the period upto

1991, that fact is not denied. So I am of the view that she has a preferential right to be engaged as casual labour.

8. The respondents have also taken an objection that the application is time barred. However, it is well settled law that whenever a junior to a casual labour is appointed, cause of action arises then and the applicant has claimed in this O.A. that some of the juniors are still working and some of them have been regularised also. The applicant has also prayed for condonation of delay on the ground that in O.A.1821/92, the Tribunal had given the direction to re-engage the services of those applicants also who have not worked for 337 days for the period upto 1.5.88 and those who were neither screened nor absorbed, were directed to be offered casual jobs if a vacancy was available. Considering the same, I allow the application for condonation of delay.

9. Admittedly, the applicant in this case has worked as casual labour upto the year 1991. Though she has not completed 337 days of working upto 1.5.88 but the fact remains that she has been engaged as casual labour even thereafter. As such, even if she has not claimed for being placed in the panel for which a cut-off date was fixed as 1.5.88, still she has a right to be re-engaged if a job of casual nature is available with the respondents.

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10. In the circumstances, the O.A. is partly allowed and the respondents are directed to re-engage the applicant in preference to juniors and outsiders, if the job of casual nature is available with them. No costs.

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( KULDIP SINGH )  
MEMBER(JUDL)

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