

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 2048/96

New Delhi, this the 28th day of August, 1997.

Hon'ble Mr. N. Sahu, Member(A)

Liladhar
S/o Amar Singh,
R/o Vill.& Post - Dhalona,
P.S. Shikarpur,
Distt. Bulandshahr,
D.R.M. Office,
New Delhi

...Applicant

(By Advocate : Sh. Malik B.D. Thareja)

Versus

Union of India : Through ;

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

2. Divisional Railway Manager,
Northern Railway,
New Delhi

... Respondents

(By Advocate : Shri B.S. Jain)

ORDER

Hon'ble Mr. N. Sahu, Member(A) -

The applicant was appointed on 15.04.1983 as a Casual Labour under Inspector of Works(C&W), Northern Railway, Delhi. He was issued Casual Labour Card No.184929. The labour card shows that he worked for 185 days upto 23.10.1983. There were gaps of three days after 13.06.1983 and another three days after 13.08.1983, otherwise, the service was continuous. The applicant was served with a notice dated 03.11.1992 directing him to appear for screening on 12.11.1992 at Sonipat which he complied by producing his original Casual Labour Card and School Leaving Certificate. The respondents did not intimate to him the result. He approached the Assistant Personnel

Officer. He was given a Medical Memo No. 191741 dated 29.05.1994 to appear before the DMO, Delhi for a category B-1 test which he complied with. This was postponed. Para 4.5 of the counter affidavit states that the applicant was issued Medical Memo No. 101741 dated 24.05.1994 for medical examination within category B-1, DMO, DLI for a C&W job. He was declared unfit in category B-1 by DMO, Delhi.

2. In the background of the above submissions the applicant's claim for relief is that he should be sent for re-examination in B-1 category or any other relaxed medical test.

3. The respondents state that under instructions a casual labour who has put in 6 years of service is to be sent for medical examination as a serving employee and not as a first entrant. They stated that the applicant did not work for 6 years as casual labour. In the rejoinder the applicant reiterates his rights. The relevant rule is as under:

"F.(ix)(a)

When casual labour who have put in six years service whether continuous or in broken period, are included in a panel for appointment to Class IV posts and are sent for medical examination for first appointment in regular service, the standard of medical examination should not be the one that is required for first appointment but should be relaxed standard as prescribed for re-examination during service.

(b) Such of the casual labour as are found, on medical examination unfit for the particular category for which they are sent for medical examination despite the relaxed standard prescribed for re-examination may be considered for alternative category requiring a lower

medical classification subject to the suitability for the alternative category being adjudged by the screening Committee, to the extent it is possible to arrange absorption against alternative post requiring lower medical classification."

4. According to the applicant, the period of 6 years service need not represent continuous service; broken periods of service should also be taken into account. As the applicant admittedly worked from 15.04.1983 to 14.08.1991, he served for more than 6 years. He, therefore, merits another medical examination on relaxed standards. He cited in support of his claim a decision of the Division Bench of Delhi dated 15.01.1993 in OA No.514/92. The facts in that case are more or less similar to the facts of the OA before me. Under similar facts, the Division Bench held that the applicant is entitled to succeed and directed the respondents to send him again for medical examination.

5. I have carefully considered the submissions. There is a petition for condonation of delay. The applicant states that he failed to pass category B-1 test for which he appeared on 10.06.1994. He made a written representation on 10.01.1995 to the Assistant Personnel Officer. He pursued it by a second representation to the DPO on 21.05.1995. He requested that the reckoning of time should commence from 25.05.1995 and as such the application is within limitation. He has annexed a copy of the representation. I believe that the applicant had put in his representation in 1995. Although this is denied, this denial has no significance because the

Tribunal itself in its order dated 25.09.1996 directed to show cause as to why the respondents should not dispose of the representation by a speaking order. Even otherwise, there is neither negligence nor casualness in the attitude of the applicant. Even if there is any delay, the said delay is explained.

6. With regard to the question of jurisdiction also, the applicant has given his address as New Delhi and as this address has not been doubted, this application has been validly filed and dealt with by this Bench.

7. The facts are that the applicant had put in 186 days of service in 1983 and 129 days of service during 1990-91. He was initially sent for screening on 12.11.1992 at Sonipat. This was inconclusive as results were not declared. He was sent for a second medical test on 24.05.1994 for category B-1 in which he failed. Rule 9(b) of the Railway Board's letter dated 08.06.1981 is applicable to the applicant. He was found unfit for category B-1. He prayed for an alternative category requiring a lower medical classification subject to his suitability for the alternative category to be adjudged by the Screening Committee. The applicant was impliedly included in a panel for appointment to Class IV posts; otherwise, he would not have been sent for a medical examination for first appointment to regular service. The applicant states at para 4.13 of the rejoinder that he worked from 15.04.1983 to 14.08.1991 in broken periods which is clearly a period of more than 6 years. In

view of the above instructions and following the
Division Bench order in OA-514/92 dated 15.01.1993 the
respondents are directed to send the applicant again
for a medical examination on relaxed basis for
alternative category to be adjudged by the Screening
Committee within a period of ten weeks from the date
of receipt of a copy of this order.

9. OA is allowed.

N. Sahu, 28.8.97
(N. Sahu)
Member (A)

/Kant/