

Central Administrative Tribunal
Principal Bench, New Delhi.

OA-1217/2000

New Delhi this the 20th day of April, 2005.

Hon'ble Shri Shanker Raju, Member(J)

Shri Innocent Simon,
S/o Sh. E. Simon,
R/o 263/B, Awas Vikas,
Hapur, Distt. Ghaziabad.

Applicant

(through Ms. Meenu Mainee, Advocate)

Versus

Union of India through

1. the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divl. Railway Manager,
Northern Railway,
Ambala.
3. The Divl. Superintending Engineer©,
Northern Railway,
D.R.M.'s Office,
Ambala Cantt.

Respondents

(through A.P. Sahai, Advocate)

Order (Oral)

Learned counsel of the applicant states that in the light of Full Bench decision irrespective the General Manager accords approval or not, the same would not be impediment for entering the name of the applicant in Live Casual Labour Register. Learned counsel further states that Circular No. 3088 dated 28.08.1987 in so far as for those who have discharged work after 1.1.1981 is concerned, it is incumbent upon the respondents to continue their name in the LCR.

2. For entry in LCR, it is stated that it is not at the behest of the employee but as per Clause-7 all the particulars which are available with the applicants the

same should have been meticulously gone into and the name of the applicant would have entered in LCR as the juniors were incorporated in the aforesaid LCR.

3. Learned counsel states that in the decision of the Tribunal in **Mithal Lal Vs. U.O.I. & Ors.** (OA-1220/88(T)) decided on 14.03.1989 it has been held that requirement of making an application to those who discharged after 1.1.1981 would not arise.

4. On the other hand, respondents' counsel vehemently opposed the contentions and stated that though vide letter dated 30.04.1997 name of the applicant was entered in the LCR but this is without approval of the competent authority. It is further stated that as a condition precedent as per circular meant for engagement in LCR, as the applicant has failed to represent for inclusion of his name before 31.03.1987, he is not qualified to be incorporated in the LCR.

5. I have carefully considered the rival contentions of the parties and perused the material placed on record.

6. As the High Court has remanded back this case and the issue of limitation would not be an impediment for consideration and the matter is to be proceeded on merits, the objection raised by the respondents is over ruled.

7. In the light of **Mithal Lal's** case, instructions issued by the Railways on 28.8.1997 to represent by a casual labour for inclusion of his name in LCR would apply not only to casual labourers who have been disengaged before 1.1.1981 but also to the casual labours, who have been discharged after 1.1.1981. It is incumbent upon the respondents not only to enter his name but indefinitely continue the applicant.

8. It is trite law that a junior who is similarly circumstanced is selected, the same cannot be denied to a person to form the same class and any invidious treatment would be in violation ^{of} the mandate of Article 14 of the Constitution of India.

9. In this view of the matter, non-accord of approval to the applicant for inclusion of his name in LCR as he is eligible in all respect as per Circular dated 28.08.1987, would not be an impediment for rejecting the claim.

10. In the result, impugned order is set aside. Respondents are directed not only to include the name of the applicant in LCR but also consider him for re-engagement and other consequential benefits at par with juniors within 3 months from the date of receipt of a copy of this order.

S. Raju
(Shanker Raju)
Member(J)

/vv/