

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 185 of 2000

New Delhi, this the 8th day of May, 2001

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

(b)

Subash S/o Shri Ghure Singh
R/o : Village, Post - Ghore,
Thsil Palwal District Faridabad.

-APPLICANT

(By Advocate: Shri Yogesh Sharma)

Versus

1. Union of India through the General Manager
Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Bikaner Division,
Bikaner (Rajasthan).
3. The Divisional Engineer
Northern Railway (MG),
Old Delhi Railway Station, Delhi.

-RESPONDENTS

(By Advocate: Shri R.L. Dhawan)

O.R.D.E.R (ORAL)

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

The applicant has come up with this OA filed under Section 19 of the Adminsitrative Tribunal's Act, 1985 whereby he has impugned an order dated 8.7.99 passed by respondent No.2 vide which his claim for including his name in the Live Casual Labour Register has been rejected which is illegal, arbitrary, unjust and against the rules and, therefore, the same should be quashed.

2. The facts in brief are that the applicant claims to have worked from 23.5.72 to 9.7.85 under various offices but his last two engagements from 3.10.1983 to 2.11.1983 were under the C&W Superintendent, Delhi Queens Road and from 17.11.1983 to 9.7.85 under the C&W Superintendant, Delhi Main as such he is fit for re-engagement. The applicant has earlier filed an OA 579/94 which was disposed of on 23.3.94. In that OA he had made

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a prayer-- that a direction be issued to the respondents to re-engage the applicant as casual worker in preference to juniors, who have got lesser number of working days to their credit. While deciding the OA, the court had observed that the application is belated and we are not satisfied with the explanation given for condoning the delay which was also on record. However, while disposing of the OA, the court had given a direction in the following manner:-

" The limited relief which we can grant to the applicant is to direct the authorities concerned to consider the applicant for re-engagement along with other, if and when the respondents have the necessity of engaging casual workers and if the applicant is otherwise eligible."

3. Thereafter the applicant has filed a Miscellaneous Application No. 1834/96 in OA 1402/98 seeking further direction that sometime be fixed for implementation of the Tribunal's order which was subsequently filed by the applicant and according to that MA a further direction was given to the respondents to comply with the directions within a period of 3 months but it appears that thereafter vide letter dated 5.2.97 the DME had conducted some verification and has issued a letter Annexure A-2 wherein he had verified the labour card of the applicant bearing No.45043 and after verification he found the same to be correct and had also written therein that the further proceedings be done in accordance with the rules. But still it appears that the applicant could not be re-engaged and thereafter the applicant filed an OA 1402/98. The said OA was disposed of at the admission stage itself directing the

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respondent No.2 to consider and dispose of the application filed by the applicant.

4. So by the present impugned order the DRM has rejected the representation of the applicant on the ground that the applicant had left the work on his own accord w.e.f. 10.7.85 and he had also superseded the earlier letter of even number dated 5.2.97 vide which the casual labour card of the applicant had been verified, so the real grievance again started when the respondent No.2 had superseded the letter dated 5.2.97 issued by the DME.

5. The counsel appearing for the applicant submitted that the authority issuing the impugned order Annexure A-1 should not have superseded the letter dated 5.2.97 and the applicant should have been given the job. To support his contention he has referred to a judgment given in OA 1903/98 in the case of Dharam Pal Vs. U.O.I. & Others wherein in similar circumstances, the applicant who had claimed to have worked as casual labourer under the Carriage and Wagon Supdt. etc was got verified by the DME and respondents had again taken a plea that the competent person should have been Divisional Personnel Officer and not the Divisional Mechanical Engineer (DME) so the verification done by the DME was stated to be not binding on the Railway Board itself. But the Tribunal disagreeing with the Railways had held that since the applicant had been engaged under the DME, therefore, a certificate from him would indicate that the applicant had rendered services as claimed by him since the entries have been made in the Live Casual Labour Register itself

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and it cannot be said that the applicant had left the services on his own accord. In this OA also the applicant had last worked in the office of the Carriage and Wagon Superintendent and his card was verified on 5.2.97 by DME, who is the controlling authority of the Carriage and Wagon Superintendent so DRM could not have superseded the letter dated 5.2.97 by his own letter dated 8.7.99 which is impugned in this case.

6. Hence, in the result I allow the OA and quash the impugned order dated 8.7.99 and direct the respondents to proceed in accordance with the letter dated 5.2.97 and they may take up proceedings in accordance with the rules and instructions on the subject stated above. No costs.

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(Kuldeep Singh)
Member (J)

Rakesh