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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

O.A.1250/89

New Delhi this the day of 22nd March.1994.

HON'BLE SHRI J.P. SHARMA, MEMBER (J)
HON'BLE SHRI B.K. SINGH, MEMBER (A)

Shri Surjan Singh,
S/o Shri Dan Singh,
Casual Khalasi Electrical Department
Central Railways.
Gwalior.

Shri Ramakant Roi,
S/o Shri Nar Singh,

Shri Harish Chand,
S/o Shri Ram Dhari,

Shri R.K. Tiwari,
S/o Shri Ganesh Pd Tiwari.

..... Applicant

Advocate : Shri B.S. Mainee

VERSUS

UNION OF INDIA, through

The Division Railway Manager,
Central Railways,
JHANSI.

... Respondents

Advocate : Shri H.K. Gangwani

ORDER (ORAL)

(HON'BLE SHRI J.P. SHARMA, MEMBER (A))

The applicants jointly filed this application making a prayer in M.P.1368/89 for retaining this Original Application 1250/89 in Principal Bench, which was allowed by the Order of 23.06.89. The applicants have also moved application under Rule 4(5) of the C.A.T. Procedure Rules, 1987, for permission to join in the aforesaid application. Since this Office have not given any number to this M.A. it appears to have escaped notice of the Bench, even at the time when O.A. was admitted on 16th October, 1989.

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4 This all appears by an ⁱⁿadvertance on the part of the Registry and at this stage of final hearing it cannot be said that Applicant No.1 Shri Surjan Singh has only filed this application. The application is ^{verified} ~~sent~~ by all the applicants. In view of this, above request of the applicants to join together is allowed, though, belatedly.

2. The grievance of these applicants is common in as much as Divisional General Manager, (Central) Jhansi, by the Impugned Order dated 25th May, 1989 declared the result of screening which was held on MRCL on 15,16,17th of June, 1987 at the DRM Office Jhansi. This Memo contains the name of 123 persons but the names of the applicants are not mentioned in this list. However, it is mentioned in the impugned Order that the names all other who have been found suitable will be interpolated after screening of their service cards and other formalities. The relief claimed in this application by the applicants is that the respondents be directed to hold a fresh screening test in accordance with the rules giving sufficient time to the applicants to appear as also finalise the selection within the period as prescribed by the Railway Board.

3. The respondents have contested this application and prayed that the application is not maintainable in view of the preliminary objections because, the applicants were not found fit in the Screening and they have referred to the authorities of A.P. Khatri Vs C.S.&I.R. reported in 1988 Vol.VIII ATC Page-9 and the case of S. Subramanian Vs Staff Collection Commission reported in 1989 (ATR) Page 276. However, it is admitted by the respondents in their reply

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le that due to certain theft in the Office of the Assistant
Electrical Engineer (TD) Mathura on 21.03.1985 Casual Labour
Cards were stolen for which FIR has been registered
at the Police Station and the present applicants
will be issued fresh Casual Labour Service Cards.

4. We have heard the learned counsel for the parties at length and perused the record. The learned counsel has referred to the fact that the Screening of MRCL is to test their mental suitability, their physique for lifting weight etc in view of the fact that they are not classified as skilled labour. However, the respondents in spite of the direction of this Tribunal, did not furnish any guidelines laid down in Circular or administrative instructions, on the basis of which the Casual Labour/mrcl are tested in the screening. Basically, Tribunal cannot sit as an Appellate Competent Authority to go to the findings of the screening done by the competent staff. But the respondents have to give a clear indication in the reply, as to what was the criterion for rejecting the present applicants as they have not been brought on the list, finally declared by the impugned order of 25th May, 1989. However, this order also gives a liberty to the competent authority to interpolate further names, after proper scrutiny of the service records. That fact has also not been placed before the Bench by the respondents whether they have entered into any such process of verifying the length of service of the MRCL or any other name or names have been subsequently, interpolated in the annexed list of successful screened MRCL.

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5. In view of the above facts, it is not clear as to on which grounds, the present applicants were enlisted either because of any physical disability or mental alertness or on the basis of having put lesser number of days of service in comparison to others who have been enlisted. There is Order of the Bench dt 3rd July, 1989 whereby the applicants were ordered ^{not} to be reverted. Since this is an old matter, neither the learned counsel for the applicants nor the respondent's counsel is aware of the present position regarding the applicants. In any case, the learned counsel for the applicants has pointed out a sort of discrimination which has taken place in the screening test on the basis of length of service. The learned counsel has pointed out the name at Serial No.106 of Shri Kirpal Singh, which is in the list annexed to the Memo dt 5th October, 1988 and at page No.36 of the Paper Book, where the number of working days of Shri Kirpal Singh is 1508, He has also referred to the case of Shri Harveer Singh at Serial No.89 whose working days are shown to be 1532. The learned counsel pointed out that one of the applicants Shri R.K. Tiwari, who has been enlisted in the same annexure at Page-36 has been shown to have 1554 days which obviously are more than those who have been listed. The learned counsel has also referred to some other similar MRCL who have put lesser number of days but have been enlisted as successful screened candidates. This goes to show that the respondents have not been uniform at least in recording length of service put by MRCL as Casual Labour on monthly basis with the respondents.

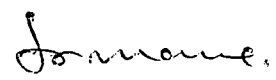
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6. However, since while more than 5 years have passed and the applicants if, they are still in service and working, may be screened again on the basis of same standard as was adopted earlier and in case they are found suitable they should be given old seniority which has been given to any of the juniors, determined on the basis of length and quantum of working days put by each MRCL, either as Casual Labour or on monthly basis.

7. In view of the facts and circumstances, the application is disposed of accordingly.

8. If the applicants have already been regularised then this practice should not be resorted to again, except seniority. There is no order as to the costs. ~~on parties.~~


(B.R. SINGH)
MEMBER (A)


(J.P. SHARMA)
MEMBER (J)

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