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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI.

DA No. 408/89

Date of decision: 30-09-92

Sh. Juglal Saini .. Applicant

Sh. V.P. Sharma .. Counsel for the applicant

Versus

Union of India & Ors. .. Respondents

Sh. Jagjit Singh .. Counsel for the respondents.

CORAM

Hon'ble Sh. P.K. Kartha, Vice Chairman (J)

Hon'ble Sh. B.N. Dhoundiyal, Member (A)

1. Whether the Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporters or not ? *No*

JUDGEMENT

(Of the Bench delivered by Hon'ble Sh.B.N.

Dhoundiyal, Member(A)

Shri Juglal Saini is aggrieved by the impugned order issued by the Divisional Office, Western Railway, Jaipur on 7.6.88, disengaging him from the post of Badli/ substitute worker. According to the applicant, he was engaged on 20.6.81 as Hot Weather Waterman and had worked at various stations in that capacity for 6 days in 1981, 30 days in 1986 and 193 days in 1987-88. The Station Superintendent, Govindgarh with the approval of the

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Assistant Commercial Superintendent, issued orders on 29.6.87 for engagement of the applicant as Substitute Worker. On 9.5.88, an order was issued granting him temporary status w.e.f. 26.7.87 (Annexure-A3). On 16.7.87, a certificate of physical fitness was also given to him. His mother had made a representation for the appointment of her son on compassionate ground on 15.7.84, as her husband who was also a Railway employee had died after long sickness. The applicant has prayed that the impugned order dated 7.6.88 be declared as null and void and the applicant be deemed to continue in service and that the respondents be directed to reinstate him in service on regular basis.

2. The respondents have stated that the applicant was engaged as Hot Weather Waterman for a specific period from 20.6.81 on daily wages basis. During the summer season of 1981, he worked for 6 days only and subsequently, he absented for a period of 5 years. He again appeared in June, 1986 to work as Hot Weather Waterman for 30 days. During 1987, he had worked for 85 days only. Though he should have continued to work as Hot Weather Waterman

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during summer seasons, the Station Superintendent, Govindgarh managed to obtain the sanction of the Assistant Commercial Superintendent on 29.6.87 for utilisation of the applicant as substitute, against the leave and sick vacancy. This was done without the approval of the Personnel Branch.

The respondents have appended a list of Hot Weather Watermen in which seniority as per number of days worked has been assigned. In this list, the applicant appears at Sl.No. 447-A, which shows that there are a number of persons higher in the seniority list, who are yet to be given regular appointment. When this mistake was brought to the notice of Personnel Branch, the Assistant Personnel Officer issued an order on 7.6.88 for stopping utilisation of the applicant as substitute. The applicant is not entitled to compassionate appointment as his father Late Shri Parma Ram, Pointsman, had retired after attaining the age of superannuation on 30.4.84 and died shortly thereafter. There is no provision in the Rules for appointment of dependents on compassionate grounds, after an employee has retired. The respondents admit that the applicant having completed 120 days of service, was given temporary status w.e.f. 26.7.87. The applicant is one of the junior most persons in the seniority list of

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Hot Weather Waterman and he can only be engaged as Substitute if there are vacancies after providing regular jobs to his seniors.

3. We have gone through the records of the case and heard the learned counsel for both parties. The applicant has relied on a number of decisions* and we have duly considered these.

4. The respondents have in compliance of the directions given by the Supreme Court and this Tribunal, already prepared a list of casual workers (Hot Weather Waterman) based on their seniority as per number of days worked. The only manner in which the applicant could have claimed regularisation on out of turn basis was through a compassionate appointment in view of the fact that his father was also a Railway employee. However, his father had retired after attaining the age of superannuation and only died thereafter. As in the case of the applicant, temporary status has already been granted to a number of Hot Weather Waterman and many of them have put in longer service than the applicant. The persons who are senior

* Inder Pal Yadav Vs. U.O.I. & Ors. 1985 (2) 248; Surender Singh Vs. The Engineer-in-Chief, CPWD, AIR 1986 (SC) 585; etc.

to the applicant are still waiting for engagement as Substitutes and in view of this, we are of the opinion that the applicant cannot claim out of turn priority over them.

5. In the facts and circumstances of the case, we hold that the applicant is not entitled to the relief sought by him. He has to wait for his turn as per his seniority for engagement and regularisation.

The application is therefore disposed of with the direction to the respondents to consider engaging the services of the applicant in accordance with his seniority, shown in the list of casual workers.

There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) *8/9/72*
Member (A)

Parry
30/9/72
(P.K. Kartha)
Vice Chairman (J)