

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

REGN. NO.567/88

DECIDED ON: 26.7.88

Shri N.K.Jain, Booking Clerk, Shiva Ji Bridge,
Railway Station, New Delhi. Applicant

Versus

1. Union of India, through the Secretary, Ministry
of Labour, Sharm Shakti Bhawan, Rafi Marg, New Delhi.
2. Chief Labour Commissioner(C) Shram Shakti Bhawan,
New Delhi.
3. Regional Labour Commissioner(C), 2Ec, Block-B,
Curzon Road, Hutments, Curzon Road, New Delhi.
4. Union of India, through General Manager, Northern
Railway, New Delhi.
5. Divisional Railway Manager(Adj), Northern
Railway, Paharganj, New Delhi. Respondents.

CORAM :- Hon'ble Mr. Justice J.D. Jain, Vice Chairman
Hon'ble Mr. Kaushal Kumar, Member(A).

PRESENT: Mr. V.P. Gupta, Advocate, Counsel for the applicant.
Mr. P.S. Mahendru, Advocate for Respondent No. 4 and 5.
Nemo for Respondents No. 1 to 3.

ORDER

ORAL:

Admitted. By this application U/S 19 of the
Administrative Tribunals Act, 1985, the applicant

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seeks to challenge the duty roster No.3-E/9/264-II(Adj) dated February, 1984 and prays for the same being quashed on the ground that he has been wrongly classified as Essentially Intermittant Worker. Since he ought to have been ^{declared} ~~be~~ continuous worker, he ~~be~~ restored to work for 8 hours per day or 48 hours a week, and he be allowed over time allowance for the excess hours as detailed in para 6.10 of the application. The applicant inter-alia states that a representation was made by him through his Counsel to the Regional Labour Commissioner, Government of India, Ministry of Labour, Kanpur on 30-4-1987, a copy of which is Annexure IV-A to this application, but no action has been taken on the same by the Regional Labour Commissioner so far.

2. We notice that under The Railway Servants (Hours of Employment) Rules, 1961 the power to classify the Railway servants and to declare employment of Railway Servant as intensive or essentially intermittent within the meaning of section 71-A of the Railways (Amendment) Act, 1956 shall rest with an officer not below the rank of a Senior Scale Officer as a temporary measure during the periods of emergency, Provided that the Head of Railway Administration may in his discretion delegate the power vested in him under this sub-rules to the Chief Personnel Officer. However, if any question arises in respect of a declaration made under rule 3, the matter shall be referred to the Regional Labour Commissioner whose decision, subject to the provisions of sub-rule(2) shall be final. Sub rule 4(2) of these Rules provides that

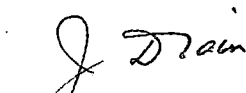
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any person aggrieved by a decision of the Regional Labour Commissioner may, before the expiry of 30 days from the date on which the decision of the Regional Labour Commissioner is communicated to him, prefer an appeal to the Government whose decision thereon shall be final. In the instant case, the Regional Labour Commissioner has not decided the point in issue so far, although a communication was made to him in way back in April, 1987. There is no appearance on behalf of Respondents No.1 to 3 which include the ^{Ministry} ~~order~~ of Labour, Government of India as also the Regional Labour Commissioner. Of course, the Railway administration is duly represented by a counsel and have filed a counter-affidavit too.

3. In view of fore-going discussion, we are left with no option but to issue a direction to Respondent No.3 to dispose of the representation of the applicant (Annexure IV-X) within six months from today in accordance with law. A copy of this order be sent to him, alongwith, a copy of Annexure V. No order as to costs.



(Kaushal Kumar)
Member



(G.D. Jain)
VC