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(5)

Central Administrative Tribunal
Principal Bench, New Delhi

New Delhi: 13.7.1995.

OA No.1803/91

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr. R.K.Ahooja, Member (A)

Jai Singh Rajput
Post Dabla, Kanwar Ka Nagal
Dhani Cholai Tehsil Neem
Ka Thana Distt. Sikar.

...Applicant.

(Represented by Shri V.P.Sharma, advocate)

Versus

Union of India through

1. General Manager
Western Railway
Churchgate,
Bombay.
2. Divisional Engineer-III
Western Railway
Jaipur
3. Asstt. Engineer (CTR)
Western Railway
Alwar.

...Respondents.

(Represented by Shri

O R D E R (oral)

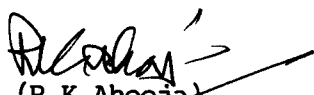
Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The applicant who commenced service as Gangman (Casual Mazdoor) under P.W.I (R), W.R., Narnaul w.e.f. 9.11.83 was granted temporary status after completion of required length of service. When he was medically examined for the purpose of screening and absorption for regular service, the A.D.M.O., Phulera found him unfit to discharge his duties as Gangman. Therefore, the applicant was disengaged without any written order. The applicant represented for considering his case for a second medical examination to ascertain whether he can be absorbed in any other/lower category inviting the^{to} attention^{of} cases of similar nature. Finding no response, the applicant filed this application originally before the Jodhpur Bench of CAT which was later transferred to this Tribunal. The prayer of the applicant is for a direction to the respondents to take back the applicant in service without delay and to send him for a medical examination to assess his suitability to any other category.

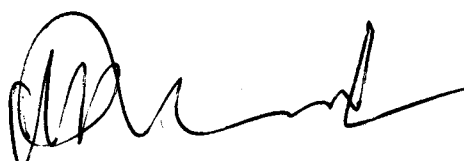
2. The respondents in their reply contend that the applicant was the question of not disengaged but left on his own and that/sending him for another medical examination to ascertain his suitability to a lower category does not arise as he did not have 6 years of service as per rules.
3. We have heard learned counsels for the parties. It is not disputed that the applicant was engaged as Casual Magdoor under P.W.I, W.R., Narnaul and he was sent for medical examination for screening and absorption in the regular service. If the applicant was not found fit for the category B-1, he should have been assessed for a lower category like C-1. This has not been done. The respondents contend that as per rules, for the purpose of sending a casual labour for a second medical examination, he should have rendered 6 years of service. No rule or instructions in this behalf have been brought to our notice by the counsel for the respondents. We are of the considered view that the interest of justice demands directing the respondents to immediately send the applicant for a re-medical examination to assess his suitability and if found suitable in any lower category, he be considered and absorbed in that category.
4. Under the circumstances, we dispose of this application with a direction to the respondents to send the applicant for a re-medical examination for the purpose of screening and for ascertaining his suitability under any lower category than B-1 and if found suitable, empanel him and appoint as such in any existing vacancy or vacancy which may arise. For this purpose, the applicant shall report before the Assistant Engineer, Western Railway, Alwar on or before 11th August 1995 and the third respondent is directed to refer the applicant immediately to concerned Medical Officer.

There is no order as to costs.

D A S T I


(R.K. Ahooja)
Member (A)

aa.


(A.V. Haridasan)
Vice Chairman (J)