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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

R.A. No. 273/93

Dated: 8.9.1993.

in

O.A. No. 1804/91

INDER RAJ

v/s

UNION OF INDIA & OTHERS

O_R_D_E_R

The applicant has filed this application
seeking review of the judgement dated 27.7.1993.

We have seen the Review Application and we are
satisfied that the Review

Application can be disposed of by circulation
under Rule 17(iii) of the CAT (procedure) Rules,
1987 and we proceed to do so.

2. The applicant was engaged as Gangman under
P.W.I. W. Railway, Narnaul w.e.f. 22.8.1983. He
was granted temporary status (CPC) on 4.1.1985
and worked till 8.1.1987. Hence, the applicant
contends that he should be given all the benefits
which are admissible to a temporary employee of the
Railway including the protection of Railway Servant
(D&A) Rules, 1968 for the purpose of termination of

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services of the applicant. The main thrust of the argument in this R.A. is that the applicant was medically examined and he was found unfit in B-1 category but was fit for other categories such as C-1 and C-2 etc. and the applicant could have been given alternative appointment as per medical report.

It is also stated that similarly situated persons namely Shri Sube Singh s/o Shri Umeda Ram, Shri Ram Parshad s/o Shri Kishan Lal etc. were also declared unfit in B-1 category and were called for medical examination for other categories and were absorbed in other alternative posts. The applicant also stated that pursuant to medical examination, he was not allowed to perform duties w.e.f. 8.1.1987 and he was informed orally that the service of the applicant was terminated. The applicant made application for re-medical examination on 14.9.1987 for which he did not receive any reply.

2. The Respondents, in their reply, have taken the stand that the petitioner neither informed P.W.1(R) about his failing in the medical examination nor reported for duty. He, in fact, had abandoned the job. As per the interim order of this Tribunal in the year 1991 though the Respondents were directed to consider engaging the applicant as a Casual Labourer in one

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of the available vacancies, the applicant did not avail of that opportunity and, therefore, it is clear, that he had abandoned the job. It is further contended that according to para 2007(4b) of Indian Railway Establishment Manual, those workers who have served for less than six years are not eligible for re-medical examination under the relevant provisions. Since the applicant had not completed 6 years of service, he is not covered by Rule 2007(4)(b) of the Indian Establishment Manual and, therefore, he comes within the ambit of the provisions made in Rule 2007(4)(a) of the Manual.

3. Regarding the merit of the case, the same has been dealt with at page 4 of the judgement. Since, no notice of termination was issued as alleged in the R.A. and after his medical examination the applicant did not turn up for work, the question of absorbing him in service hardly arise. The Learned Counsel for the applicant has furnished a copy of the judgement of the Coordinated Bench of this Tribunal in the case of Shri Beer Singh v/s. Union of India vide dated 16.8.90.

Abul

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The content of the judgement is not legible and the same does not also bear signatures of the presiding officers. It has been observed, in that judgement that the question whether the casual labourer has abandoned service or not would depend on the facts and circumstances of each case. Employer is bound to give notice to employee in such case calling upon to resume his duty. In case the employer intends to terminate his services on the ground of abandonment of service, he should hold an inquiry before doing so. This decision was furnished along with R.A. and not brought to our notice at the time of hearing of the case. No reason has been assigned why this decision was not cited at the Bar during hearing. The Respondent has clearly stated that the case of Sube-Singh cannot be equated with that of the applicant because Sube Singh has put in more than six years of service. Therefore, he has been examined in lower medical category whereas the applicant has not put in the required number of six years service and thus the question of sending him for further medical examination does not arise. Therefore, he cannot be equated with that of Sube Singh.

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4. Keeping in view, the Order 47, Rule 1 R/W

Section 115 of the CPC, the Review Application

can be entertained on account of some mistake

or error apparent on the face of the record etc.

which is not the ground in the instant case. As

mentioned earlier, the applicant has not completed

6 years of service and despite the fact that he has

been asked to join duty pursuant to interim order

of this Tribunal, he did not join and abandoned

the job, thereby he cannot take advantage of the

decision rendered by this Tribunal in O.A. No. 1608/90

which on fact is distinguishable from this case.

5. It is not the case of the applicant that he

could not obtain the decision furnished at the time

of hearing. In the circumstances, we find that neither

any error apparent on the fact of the record has been

pointed out nor any new fact has been brought to our

notice calling for a review of the Original Judgement.

The ground raised in the R.A. are more germane for an a

ppeal against our judgement and not for review. The

Review Application is, therefore, dismissed.

B.S. Hegde
(B.S. Hegde)
Member (J)

I.K. Rasgotra
(I.K. Rasgotra)
Member (J)