

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 578/1991

Date of decision: 25.09.1992.

Shri Rohtas

...Applicant

Vs.

U.O.I. through the General Manager, Northern Railway & Others ... Respondents

For the Applicant

... Shri V.P. Sharma,
Counsel

For the Respondents

... Shri Romesh Gautam,
Counsel

CORAM:

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

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *No*

JUDGMENT
(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

The applicant who has worked as a Casual Labourer the *2* Gangman in Northern Railway from 1972 to 1977, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondents to absorb him on regular basis in a suitable post in accordance with the relevant instructions issued by the respondents.

2. We have gone through the records of the case and have heard the learned counsel of both parties. The fact that the applicant had worked from 1972 to 1977 has not been controverted by the respondents in their counter-affidavit. They have, however, raised the plea that the present application filed in 1991 is hopelessly time barred and that the applicant did not also make any representation to the

respondents before filing the present application. They have also stated that he has not completed 120 days of continuous service so as to claim temporary status in accordance with the provisions of the Indian Railway Establishment Manual.

3. The learned counsel for the applicant drew our attention to the provisions of 2007 of the Indian Railway Establishment Manual which provides, inter alia, that casual labour should be subjected to medical examination preferably before grant of temporary status. When casual labour who have put in six years of service, whether continuous or in broken periods, are included in a panel for appointment to Group 'D' posts and are sent for medical examination for first appointment to regular service, the standard of medical examination should not be one that is required for first appointment but should be the appropriate standard as prescribed for re-examination during service. Such of the casual labour as are found, on medical examination, unfit for the particular category for which they are sent for medical examination despite the relaxed standard prescribed for re-examination, may be considered for alternative category requiring a lower medical classification subject to their suitability for the alternative category being adjudged by the Screening Committee, to the extent it is found possible to arrange absorption against alternative posts requiring lower medical classification.

4. The learned counsel for the applicant argued that the applicant was not found fit on medical examination and he should have been considered for an alternative job in accordance with the provisions of Rule 2007 of the Indian Railway Establishment Manual. Such an averment has not, however, been made by the applicant in his application.

5. The period of service rendered by the applicant has been set out in para 4.1 of the application, according to which, the total period from 22.9.1972 to 11.12.1977 works out to 860 days. In other words, he has not put in six years of service in order to avail of the benefit conferred by Rule 2007 of the Indian Railway Establishment Manual. Apart from this, the applicant has approached the Tribunal seeking his absorption in the Railways belatedly. The respondents have stated in their counter-affidavit that the whereabouts of the applicant were not known to them and he had left service in 1977 without giving his full home address. This has not been controverted by the applicant.

6. In the facts and circumstances of the case, we see no merit in the present application and the same is dismissed. There will be no order as to costs.

B.N. Dholiyal
(B.N. DHOUDIYAL)
MEMBER (A)
25.09.1992

P.K. KARTHA
(P.K. KARTHA)
VICE CHAIRMAN(J)
25.09.1992

RKS
25.09.1992