

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 1821 ... of 1992 ... decided on 6.11.97.....

(29)

Name of Applicant: Shri Nehal Singh & Ors.

By advocate: Shri B. S. Mainee

Versus

Name of Respondents: Union of India & Ors.

By advocate : Shri R. L. Dhawan.

Corum

Hon'ble Mr. N. Sahu, Member (A)

1. To be referred to the Reporter or not? N
2. Whether to be circulated to other Benches of the Tribunal? N

N. Sahu
(N. Sahu)
Member (A)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 1821 of 1992

New Delhi, this the 6th day of November, 1997

Hon'ble Mr. N. Sahu, Member (Admnv)

(30)

1. Shri Nehal Singh S/o Shri Babu Lal, ex. Hot weather waterman, Northern Railway, Tundla.
2. Rakesh Kumar, S/o Shri Vasudev Sharma, ex. Hot weather waterman, Aligarh.
3. Rajiv Kumar Tewari S/p Shri P.N. Tewari, ex. Hot weather waterman, Tundla.
4. Jagdish S/o Shri Vijay Singh, ex. Hot weather waterman, Shikshabad.
5. Raj Bahadur, s/o Shri Brijbasi Lal, ex. Hot weather waterman, Etah.
6. Brahma Nand S/o Shri Ganga Prasad, ex. Hot weather waterman, Tundla.
7. Udai Ram S/o Shri Chiranji Lal, ex. Hot weather waterman, Tundla.
8. Shakundla Devi S/o Shri Om Prakash, ex. Hot weather waterwoman, Tundla.
9. Bengali Baboo, S/o Shri Talewar Singh, ex. Hot weather waterman, Hirangaon.
10. Om Parkash, S/o Shri Roop Singh, ex. Hot weather waterman, Tundla.
11. Rakesh Srivastava, S/o Shri Siya Ram, ex. Hot weather waterman, Tundla.
12. Balbir Singh, S/o Shri Behari Lal, ex. Hot weather waterman, Tundla.
13. Ramesh Chand, S/o Shri Nathu Ram, ex. Hot weather waterman, Tundla.
14. Amar Singh, S/o Shri Jhandu Lal, ex. Hot weather waterman, Tundla.
15. Ram Bati, W/o Shri Ram Nath, ex. Hot weather waterwoman, Aligarh.
16. Rajesh Kumar S/o Shri Chharu Lal, ex. Hot weather waterman, Hathras.
17. Lakan Singh S/o Shri Ratan Lal, ex. Hot weather waterman, Madrak.
18. Brahma Parkash, S/o Shri Surajpal Singh, ex. Hot weather waterman, Jalesar.
19. Virender Singh, S/o Shri Kishan Singh, ex. Hot weather waterman, Chamraula.

20. Beerum Singh s/o Shri Tula Ram ex. Hot weather waterman, Wair.

21. Shishu Pal s/o Shri Khacheroo Mal, ex. Hot weather waterman, Aligarh. (31)

22. Tarshan Pal, s/o Shri Ram Swaroop, ex. Hot weather waterman, Khurja Jn.

23. Vinod Kumar s/o Shri Chiranji Lal, ex. Hot weather waterman, Tundla.

24. Mukesh Kumar s/o Shri M.R. Shukla, ex. Hot weather waterman, Shikohabad.

25. Hari Om S/o Shri Khacheroo Mal, ex. Hot weather waterman, Maripat.

26. Hammir Singh, S/o Shri Shankar Lal, ex. Hot weather waterman, Shikohabad.

27. Satish Baboo, s/o Shri Durbin Singh, ex. Hot weather waterman.

-APPLICANTS

(By Advocate Shri B.S. Mainee)

Versus

Union of India : Through

1. The Secretary, Ministry of Railways,
Rail Bhawan, New Delhi.

2. The General Manager, Northern Railway,
Baroda House, New Delhi.

3. The Divisional Railway Manager, Northern
Railway, Allahabad.

-RESPONDENTS

(By Advocate Shri R.L. Dhawan)

JUDGMENT

By Mr. N. Sahu, Member (Admnv) -

The applicants worked as casual labourers for about 10-12 years as hot weather watermen during the months of April to July at various stations in Allahabad Division. Suddenly they found that in the summer season of 1992 they were not invited to work. More specifically from 1989 the applicants have been working regularly as per Annexure-A-1 for a period of three years. The total number of days they worked varied from 600 to 1000 days as claimed, but these periods given are

not wholly corroborated. However, the massive evidence filed of having worked for various periods from 1984 onwards had not been controverted by the respondents who routinely mentioned that the labour registers were destroyed. The respondents also admit that for the years 1989 to 1991 (both inclusive) the applicants had been engaged as hot weather watermen. They also admit that the applicants' names have been entered in the computerized list of live casual labour register and they are promised engagement in their own turn whenever vacancies arise according to their seniority.

2. The latter pleadings are more relevant. On 22.3.1996 an additional affidavit was filed by the applicants through M.A.No.702 of 1997 stating that on 23.12.1988 805 casual labourers were called for screening but though the applicants' name figured in that list they were not screened since their working days had not been correctly shown in the list. On lodging complaints they were reconsidered on 19.10.1989 by another notice for screening. The bench mark was those who worked for more than 337 days were eligible for screening and persons less than that were ignored. Paras 5 to 7 of the additional affidavit which has not been controverted are extremely important and are extracted hereunder -

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"5. That the screening committee declared the result of 394 candidates and the last one who was placed on the list had worked for 337 days. In other words casual labour having put in 337 days upto 1.5.1988 had been placed on the select list. The names of the applicants were, however, not placed on the said list because the working days of the applicants

have not been verified although applicants no.1,3,7,12,13,15,17,19 and 27 had worked for more than 337 days. Their number of working days upto 1.5.1988 was 414, 407, 383, 356, 391, 464, 386, 553 and 351 respectively.

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6. It is therefore pointed out that 2 of the applicants i.e. S/Shri Amar Singh and Toshan pal (Applicant No.14 and 22) have been placed on the select list with number of days as 345 and 337.

7. It is further submitted that the applicants have come to know that the respondents have also given appointment to Shri Shiv Kumar S/o Shri Babu Ram who had worked as a casual labour at Tundla. The name of Shri Shiv Kumar is at Sl.No.540." 260 day - OA

In spite of several opportunities no reply was filed to this additional affidavit. Since the averments have gone unchallenged, they must be assumed to be true.

3. I have carefully considered the submissions made by the respondents which, to sum up, have no substance. The claim that casual labour records were destroyed is disputed by stating that they are permanent records. At any rate, the respondents cannot be impervious to the certificates of work placed before them. Casual labour hot weather waterman engaged only in Summer season is not a disability and is none the less service rendered. The applicants placed on record the certificates of work rendered by them under various offices of the respondents and these certificates stare in the face. Their genuine grievances were not considered. Even according to the bench mark of the respondents 9 applicants mentioned in para 5 of the affidavit deserve to be screened for fitness for regularisation. I direct the respondents to reverify the claim in para 5 of the affidavit quoted above and,

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if true, convene a screening committee within four weeks from the date of receipt of a copy of this order for screening these applicants for absorption on the lines in which others have been screened during 1988 and 1989. With regard to the other applicants neither screened nor absorbed I direct that they shall be offered casual jobs in any of the offices of respondent no.3, namely, Divisional Railway Manager, Northern Railway, Allahabad within six weeks from the date of issue of a copy of this order if a vacancy is available and if there is no senior to the applicants in the casual labour register competing for the same. The respondents are also directed to keep a record of the additional services rendered by these applicants after appointment in casual or adhoc or substitute posts and add them on to the services rendered by them earlier for any future screening that the respondents might undertake. With these directions, the O.A. is disposed of. In the facts and circumstances of the case a cost of Rs.500/- (Rs.Five hundred only) per applicant is awarded which the Railway administration shall pay within 12 weeks from the date of receipt of a copy of this order.

rkv.

N.Sahu
(N.Sahu)
Member (Admnv) 6/11/97