

(16)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

NEW DELHI

O.A.No.987 of 1992

Date of Decision: 23.12.93

Shri Tej Ram s/o
Shri Hardeva,
Ex-Casual Labour Mason,
Under IOW, Northern Railway,
Hapur,
r/o MIG Flats: 51-B Pocket F,
Opposite Guru Tegh Bahadur Hospital,
Delhi -110053Applicant.

By Advocate Shri B.K.Batra
VERSUS

1. Union of India
through General Manager,
Northern Railway,
Baroda House,
New Delhi.

2. Divisional Railway Manager,
Northern Railway,
Moradabad(UP)

3. Assistant Engineer,
Northern Railway,
Hapur.Respondents.

By Advocate Shri O.P.Kshatriya

CORAM:

Hon'ble Mr. Justice B.C.Saksena, Vice Chairman.

Hon'ble Mr.S.R.Adige, Member(A)

ORDER

Hon'ble Mr.S.R.Adige, Member(A).

In this application, Shri Tej Ram, Ex.Casual Labour(Mason) under IOW, Northern Railway, Hapur, has prayed for his re-instatement with consequential benefits.

2. In the O.A., the applicant has stated that he was appointed as a Casual Labourer(Mason) under IOW, Hapur, Northern Railway on 8.2.77 and worked there for a period of 2220 days. He claims that as he worked continuously for 2220 days, he acquired temporary status and was, therefore, entitled to

all the rights and privileges of a temporary Railway Servant as provided under Rule 2515 of the Indian Railway Establishment Manual. Further more, he claims that in accordance with Railway Board's orders dated 22.10.80 (copy not filed) "if any person having worked as Casual Labourer in the past and presently out of employment due to break in his service, because of non-availability of work approaches an appropriate authority, his record should be checked and at the opportunity of next recruitment for a casual labourer work, he should naturally be given preference over his juniors".

3. The respondents have challenged this O.A. in their counter affidavit and have stated that as per the applicant's Casual Labourer Card's record, he worked from 8.2.77 till 14.9.85. Thereafter, he left the job on his own accord, and neither turned up nor contacted the superior Officers to explain the reason for leaving the job. Since the applicant had left the job without permission/notice, his name was kept in the Live Register and his seniority was maintained, but as he did not turn up for years, the department could not wait for him and the another candidate in Casual Labourer Live Register had to be appointed against a regular vacancy against which the applicant could not raise any legitimate objection at this late stage.

4. We have heard Shri B.K.Batra, learned counsel for the applicant and Shri O.P.Kshatriya, learned counsel for the respondents. Shri Batra was unable satisfactorily to explain/why the applicant had left his job on 14.9.85 and remained silent right upto 29.5.91, when he moved the authorities for the first time for his re-engagement. During hearing, Shri Batra contended

that the applicant had been engaged in service in 1959 itself, and invited attention to some entries in the photostat copy of Casual Labourer Card's record of the applicant at Annexure-A1. However, this assertion is negated by the applicant's own averment in the O.A. that he was appointed as a Casual Labourer(Mason) on 8.2.77 and his Labour Card of service also indicates that his initial appointment was made on 8.2.77.

5. Clearly the applicant left his job without seeking permission or giving notice on 14.9.85, and he cannot at this belated stage claim re-engagement.

Shri Batra has cited the case of 'Ram Kumar Vs. Union of India & others' bearing O.A.No.460/93 decided by this Tribunal on 1.6.93 in his favour, but the decision in that case cannot automatically be said to apply to the facts of the case before us, more particularly as the relief prayed for in that case was merely to include the name of the applicant in the Live Casual Labourer Register, whereas in the present case what is sought for is his re-instatement.

6. While in this case too normally there should have been no difficulty in directing the respondents to include the applicant's name in the Live Register, It is noticed that the applicant's date of birth is 5.1.36 and he would, therefore, be attaining the age of 58 years on 5.1.94. A Casual Labourer, as per Govt. instructions, cannot be engaged beyond the age of 58 years, and under the circumstances, the question of continuing the applicant beyond 5.1.94 does not arise. Further more, it also appears that on the basis of interim orders, issued on 9.4.92, the applicant has already been engaged

as a Casual Labourer(Mason) and is continuing as such.

7. As the applicant himself left his job without permission or notice on 14.9.85 and remained absent till 1991, his prayer for reinstatement as a Mason on regular basis is rejected, and this application is dismissed, subject to the observation that as he has been appointed as a Casual Labourer(Mason) on adhoc basis on the strength of/ ^{the} Tribunal's interim orders dated 9.4.92, he may be allowed to serve his time as a Casual Labourer(Mason) till he attains the age of super-annuation i.e. 58 years of age on 5.1.94.

8. No costs.

Arif Ali
(S.R.ADICE)
MEMBER(A)

B.C.Sakse
(B.C.SAKSENA)
VICE CHAIRMAN(J)

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