

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

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HON. SHRI R.K. AHOOJA, MEMBER (A)

NEW DELHI, THIS 29<sup>th</sup> DAY OF MAY 1997.

D.A. NO. 1135/1992

KRASHNA NAND  
S/o Sh. Ganga Prasad Sharma  
Ex-Casual Labour (Seasonal Waterman)  
Northern Railway  
Moradabad, U.P.

D-24 Railway Colony  
Tughlakabad  
NEW DELHI

...APPLICANT

(By Advocate - Shri G.D. Bhandari)

VERSUS

1. Union of India, through  
The General Manager  
Northern Railway  
Baroda House  
NEW DELHI
2. The Div. Rly. Manager  
Northern Railway  
Moradabad  
U.P.

..RESPONDENTS

(By Advocate - None)

ORDER

The applicant claims that he worked as a Seasonal Waterman for various periods between 1978 and 1986, in all for 214 days, and thereby acquired temporary status and a right to be considered for regularisation as Loco Cleaner in accordance with the scheme devised by the Railways. He is aggrieved that though he applied for the same in response to the circular dated 26.10.87, he was not called for the screening test and instead his juniors with lesser service were called and regularised against the said

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post. He claims to have made a number of representations including the one to a Member of Parliament, who was informed that as inquiries were being conducted against persons who had given false claims of casual employment and as in any case no vacancies were available, the case of the applicant could not be considered. The applicant refutes that he ever submitted any false claim of casual employment and further, as many of those who did submit false claims have been dismissed, he states that a number of vacancies are available with the respondents. Accordingly, he now seeks a direction to respondents that he should be considered for appointment as Loco Cleaner and be given notional seniority from the date of appointment of his junior.

2. The respondents in reply state that the applicant originally submitted a certificate of having worked as a Waterman for two spells of 30 days each, from 1.6.78 to 30.6.78 and from 14.8.1978 to 13.9.78. On the basis of these false certificates, he was given further engagement as Seasonal Waterman during 1986. However, on enquiry it was found that the claim regarding the original employment in 1978 was false and since subsequent employment was obtained on a false declaration, he was not entitled to the benefit of the scheme for regularisation. Respondents also deny that any representation or reference from Member of Parliament, as claimed by the applicant, were ever made or received by them.

3. I have heard the ld. counsel for the applicant on two occasions. ~~While~~ Ms. Sunita Rao, ld. counsel for the respondents, was present the first time on 17.3.97 when the case was left part heard.

4. The short question is whether the claim of the applicant regarding his service during 1978 is true or not. Shri Bhandari, ld. counsel for the applicant, argues that if the

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respondents had any suspicion about the authenticity of this certificate, then they should have made inquiries at the time the applicant was re-engaged. He pointed out that the applicant was re-engaged for the first time not in 1986 but in 1983, as stated in para 4(v) of the O.A. He was again subsequently re-engaged in 1984 and 1985. Copies of Casual Labour card annexed to the O.A. also bear testimony to this claim of the applicant. Shri Bhandari also submitted that in case respondents have conducted inquiry into the validity and authenticity of the Casual Labour card entries pertaining to 1978, then natural justice demanded that the applicant should have been associated with such an inquiry so that he could have refuted this false allegation. According to the ld. counsel, respondents having given the benefit of applicant's service in 1978 repeatedly in 1983, 1984 and 1985, were now barred from taking this plea regarding the authenticity of 1978 connection. Lastly the ld. counsel urges that even if it were to be assumed that the entries in regard to 1978 were under dispute, the applicant is still entitled to regularisation on the basis of the admitted period of service rendered by him.

5. The ld. counsel for the respondents, on the other hand, had produced copies 'taken on record' regarding the circulars issued by the respondents calling for applications for the post of Loco Cleaners as also the seniority list dated 30.1.87 of casual labour, in which the name of the applicant figures at S.No.146, and the revised seniority list dated 9.10.87 which was issued after inquiries made, in which the name of the applicant did not exist. A copy of the report of the SLWPI, Headquarter, Northern Railway, has also been produced according to which the applicant had not worked from 1.8.78 to 30.6.78. The ld. counsel also produced a copy of

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Educational Qualification certificate according to which the applicant belongs to the Brahmin community while in his O.A. he has mentioned that he is a member of Backward community. The ld. counsel submitted that as the applicant has obviously given wrong information about his community to this Tribunal, he is not entitled to any consideration whatsoever.

6. I have carefully considered the arguments on both sides and also gone through the records. I find that the respondents have issued a letter dated 12.3.86 in which they have stated that such of the Summer Season Watermen who had worked prior to 4.10.78 could apply for re-engagement. On the basis of his re-engagement, the applicant's name was included in the seniority list. Copy of the report R-II however shows that on verification the applicant was not found to have worked from 1.6.78 to 30.6.78. I do not agree with the ld. counsel for the applicant that this verification could not have taken place in the absence of the applicant and more so since this was in contradiction with the entries in the Casual Labour Card. If the officials in charge of the records find that the name of the applicant does not exist, then They have to be believed unless there is any allegation of malafide against them. For this reason, there is no ground for doubt about the correctness of the report (R-II). I also find that the allegation of the respondents is correct that though as per the copy of the educational certificate annexed by the applicant himself, he belongs to Brahmin community, ~~and~~ in the O.A. he has sought to obtain sympathy by stating in para 4(i) that he is a member of the Backward community.

5. I do not consider that the subsequent engagements of the applicant on the basis of a false claim of initial service in 1978 can <sup>clothe</sup> ~~go~~ <sup>or</sup> ~~with~~ his claim for regularisation with

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legality. If the applicant has obtained his initial engagement on false pretence then the subsequent employment cannot give rise to the claim for preference over those who came for their employment with honesty and truthfulness. His false claim for belonging to a backward community also makes his assertion of having worked in 1978 highly suspectable.

In view of the above facts and circumstances, I do not consider that the applicant is entitled to any relief. The O.A. is accordingly dismissed. No order as to costs.

*R.K. Ahooja*  
(R.K. AHOJIA)  
MEMBER (A)

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