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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.524/93

New Delhi this the 12th Day of January, 1994.

Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman(J)
Hon'ble Mr. B.K. Singh, Member(A)

Shri Abdul Vahid,
S/o Sh. Abdul Hai,
C/o Sh. B.S.Mainee,
Advocate,
240 Jagriti Enclave,
Vikas Marg Extn.,
Delhi-92.

Petitioner

(By advocate Sh. B.S. Mainee)

versus

1. Union of India through
the General Manager,
North Eastern Railway,
Gorakhpur.
2. The Divisional Railway Manager,
North Eastern Railway,
Izatnagar.
3. The Assistant Engineer,
North Eastern Railway,
Mathura Cantt.

Respondents

(By advocate Sh. Shyam Moorjani)

ORDER(ORAL)

delivered by Hon'ble Mr. Justice S.K. Dhaon, Vice-Chairman(J)

The principal relief claimed in this application is that the respondents may be directed to re-engage the services of the petitioner as a casual labour/waterman anywhere in Izatnagar Division in the North Eastern Railway.

A counter-affidavit has been filed on behalf of the respondents. We have perused the same. We have also perused the rejoinder-affidavit filed.

The petitioner has come out with a specific case in the O.A. that during the period

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beginning from 16.12.1983 and ending on 13.12.1984, He rendered service for 349 days. In the counter-affidavit filed it is not denied that the petitioner had rendered service for the said number of days. It is also admitted that he worked under CPWI, Mathura during the said period. It is further asserted that the petitioner had worked for 349 days in broken periods.

In support of his assertion, the petitioner had produced a certificate issued by the Chief Permanent Way Inspector, North Eastern Railway, Mathura. According to this certificate, the petitioner had rendered service for 349 days. However, there are certain small spells during which the petitioner had not worked. It appears that the petitioner was given artificial breaks. On the whole, we are satisfied that the petitioner had rendered service for 120 days during one year and if that is held, it means that the petitioner had acquired a temporary status.

One of the pleas raised in the counter-affidavit is that this application is barred by limitation. If the petitioner had acquired temporary status, his services could not be done away with save in accordance with the procedure prescribed under the law. It is not the case of the respondents that the services of the petitioner were done away with on 13.12.1984 after following the prescribed procedure. This leads to the conclusion that the termination of


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
the service of the petitioner was void. Therefore, this application cannot be defeated on the plea of limitation.

Since considerable time has elapsed between 13.12.1983 and 26.2.1993 (date on which the OA was presented), we cannot direct the respondents to re-engage the petitioner with retrospective effect and give back wages. We, however, direct the respondents to give a fresh engagement to the petitioner as soon as a vacancy arises. While doing so, the respondents shall give preference to the petitioner over freshers.

With these directions, this application is disposed of finally.

No costs.


(B.K. Singh)
Member (A)


(S.K. Dhaon)
Vice-Chairman

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