

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 21st day of August, 2000

Original Application No. 1193 of 1996

District : Azamgarh

COURT :-

Hon'ble Mr. Raficuddin, J.M.

Hon'ble Mr. S. Biswas, A.M.

Jamuna son of Murli,

Resident of Village Hariya,

Post Office-Sathigaon,

District-Azamgarh.

(Sri Rakesh Verma, Advocate)

..... Applicant

Versus

1. Union of India

Through The General Manager,

North Eastern Railway,

Gorakhpur.

2. The Divisional Railway Manager,

North Eastern Railway,

Varanasi Division,

Varanasi

3. The Divisional Commercial Controller,

North Eastern Railway,

Varanasi.

(Sri KP Singh, Advocate)

..... Respondents

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O R D E R (O_r_a_l)

By Hon'ble Mr. Rafiquddin, J.M.

By means of this OA the applicant has sought a direction to the respondents to consider his case for appointment pursuant to the notification dated 28-11-1995 and absorbing him in pursuance of the circular dated 19-5-1986. According to the applicant, he was engaged as casual labour on 4-2-1991 and worked till 16-3-1991 in the capacity of Waterman at Pbanhamau Railway Station. The applicant was again engaged in the year, 1985 as Waterman on 23-6-1985 till 31-1-1985 at Mau Jn. Both the engagements of the applicant were duly verified by the authority concerned. The applicant was again engaged during the period 4-6-1986 as Waterman till 31-9-1986 at Khurasan Road Railway Station. The applicant also worked during the period from 03-1-1987 till 27-11-1987 in the same capacity as well as Paledar at Mahmoodabad Railway Station. In this way the applicant has rendered 430 days as casual employee in the Railway administration in total and consequently he has acquired the status of temporary employee and is, therefore, entitled for appointment as regular Class IV employee.

2. We have heard learned counsel for the parties and perused the record carefully.

3. The case of the respondents is that the engagement of the applicant after 31-12-1980 is without approval of the competent authority and is illegal in terms of the provisions contained in Railway Board letter dated 31-12-1980 (Annexure-A-2 to the OA). Therefore, the applicant is not entitled for getting any benefit

of this period. The respondents have, however, not denied the claim of the applicant for having been engaged as Waterman/Paledar during the period claimed by him as mentioned above. Learned counsel for the applicant has contended that if approval of the competent authority was not obtained by the respondents ^{not for} for engaging him after 31-12-1980, he is responsible for the lapse and he should not be denied the benefit of the other instructions of the Railway Board. We also find from Para 10 of the counter affidavit that the respondents have admitted that as soon as authorised casual labours or substitutes, who have worked prior to 1-1-1981, or thereafter engaged on prior approval of the competent authority is exhausted, the case of such unauthorised labours or substitutes who worked without prior approval of the competent authority after 31-12-1980 will be considered according to ^{1. We} their seniority ~~and~~, therefore, directed to comply with this undertaking in respect of the applicant also in view of the undisputed working days of the applicant.

4. The OA is, therefore, disposed with the direction to respondent no.2 to consider the case of the applicant for regularisation/appointment as regular Class IV employee as soon as authorised casual labours are regularised as per his turn. There shall be no order as to costs.

S R *Rajiv Mehta*
Member (A) Member (J)

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