

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 790 of 1996

Allahabad this the 18th day of May, 1999

Hon'ble Mr. S. Dayal, Member (A)  
Hon'ble Mr. S. K. Agrawal, Member (J)

Som Nath, S/o Shri Jagat Singh, R/o Village - Bhroda  
P.O. Jansau, Distt. Muzaffarnagar.

Applicant

By Advocate Shri A.B.L. Srivastava

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, New Delhi.
3. Asstt. Engineer, Northern Railway, Meerut Cantt.
4. Chief P.W.I., Northern Railway, Muzaffarnagar,
5. Asstt. P.W.I., Northern Railway, Khatauli.

Respondents

By Advocate Shri AvV. Srivastava

ORDER (Oral)

By Hon'ble Mr. S. Dayal, Member (A)

This application has been filed for seeking the relief of setting aside the disengagement of the applicant's services by oral order on <sup>alleged</sup> fake

grounds of non-availability of work for the applicant.

The applicant has sought further direction to the respondents to treat the applicant in service from the date fresh entrants engaged by them after disengagement of the applicant orally.

2. The facts mentioned by the applicant in the O.A. are that the applicant had worked during the period from 02.2.78 to 14.4.78. The applicant was disengaged abruptly on 15.4.1978 on the pretext that there was no further work for him. It is alleged that the Labour Card No.115147<sup>was</sup> issued to the applicant by the respondents but no entry of the period of service rendered by the applicant has been made. The applicant claims to have made representation dated 16.5.1978 for entry of period of service. The applicant claims to have made further representations on 21.12.79 mentioning the names of persons engaged after the applicant was disengaged on ground of non-availability of the work. It is claimed that another representation was made on 14.6.85 but with no response. At the behest of the respondent no.3, the respondent no.4 issued a certificate of applicant's days of engagement on 22.11.1995. The applicant thereafter made further representation on 29.12.1995 and 20.1.1996. It is claimed that when applications of casual labour for making entry in the Casual Labour Register was invited in the year 1987 and 1989-90, the representation of the applicant existing in the record of the respondents, were ignored. It is claimed that the applicant could not have applied for entering his name in the Live Casual Labour Register without entry of the period of work in his Casual Labour Card.

3. The arguments of Shri A.B.L. Srivastava for the applicant and Shri A.V. Srivastava for the respondents, were heard. The pleadings on record of the case have been considered.

4. The main contention of the applicant is that it was the duty of the respondents to have considered his claim and pass appropriate orders regarding his re-engagement and also entry of his name in the Live Register for Casual Labour. It is claimed that the applicant had been making continuous efforts to this purpose by way of repeated representations to the respondents. The respondents in their counter, have denied that representations dated 16.5.78 21.12.79 and 14.6.85 had been received by them. They have also denied that the representations dated 19.12.92 and 20.12.95 had been received by them. They have mentioned that the applicant's representation dated 29.12.95 was received by them and the matter was examined and the reply was given to the applicant by the letter dated 06.2.96. The reply dated 06.2.96 regarding entry of the name of the applicant in the Live Register for Casual labour states that the applicant did not apply when the name of the casual labour were invited for entry in the Live Register for Casual Labour in 1987 and 1989-90. It is also mentioned that the names on Live Register for casual labour were not <sup>being</sup> entered and competent officer has to permit any entry of the names after this closure of the entry in the Live Register for Casual Labour.

5.

An issue which arises now is whether the

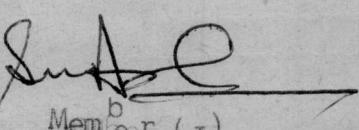
application can be entertained in 1996 when the applicant had worked 21 years earlier in 1978. The respondents are already stated that the entry in Leave Register for casual labour have been closed and no fresh entries being permitted except under the authority of a competent officer. We are inclined to accept the arguments of learned counsel for the applicant in this respect that the applicant would not have pursued the respondents to enter his name in the Live Register till he had some proof of his having worked in their organisation and this proof came to him only on 22.11.1995 by means of a certificate granted by Permanent Way Inspector (annexure A-6). Another question which arises is whether ~~any~~ entry of casual labour at a certain point of time should result in upsetting whatever has taken place before the name has been entered or not. We are of the opinion that the applicant would derive his right for consideration of re-engagement/regularisation only after his name entered in the Live Register for casual labour based on his seniority in the register and he cannot be allowed to upset the actions of the respondents before his name was entered in the Live Register.

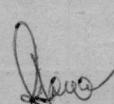
6. We find in this case that if the respondents had included the name of the applicant in the casual labour register which was being maintained prior to the existence of the Live Register for Casual labour after direction of the Apex Court in Indra Pal Yadav's case, he might have been considered for certain benefits <sup>was not</sup> at that stage. If his name ~~being~~ borne on casual labour register, the same benefits cannot be allowed now<sup>as</sup> after lapse of 21 years.

7. Learned counsel for the applicant has cited the orders in O.A. 1129/91 decided by Division Bench of this Tribunal on 27/5/94, in which it has been laid down that the applicant <sup>who</sup> would complete 120 days of work in broken spells, shall be considered for temporary status and absorption after due screening in accordance with their seniority and in the meanwhile they shall be continued to be engaged in their turn and when vacancies arise. Those applicants, who had not completed 120 days work, were to be listed in the Live Casual Register and <sup>engaged</sup> were to be continued in their turn.

8. Learned counsel for the applicant has also cited <sup>Judgment of</sup> O.A. 937 of 1987 passed on 29.9.94 in which it has been held that denial to include their names in the Live Casual Labour Register on the ground that they have worked as casual labour on vacancies for Kumbh and Kartik Melas only is discriminatory and violative of article 14 and 16 of the constitution. The basic conclusion of both these cases are that the right to be included on the Live Register for casual labour, cannot be denied to the applicants incase they are found to have worked in the Organisation in the past.

9. We, therefore, direct the respondents to include the name of the applicant on the Live Register for casual labour and consider the applicant for re-engagement/absorption on the basis of his seniority after the entry of his name in the Live Register for casual labour. The respondents are further directed to carry ~~out~~ this <sup>out</sup> within a period of 3 months from the date of communication of the order.

  
Member (A)

  
Member (A)