

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NUMBER 593 OF 1997

WEDNESDAY, THIS THE 08th DAY OF JANUARY, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

1. Rajendra Kumar
aged about 29 years,
s/o Late Bacchm Lal,
r/o Quarter No.456, Railway Colony,
Smit Read, Allahabad.
2. Pappu aged about 26 years,
s/o Late Shri Bittu,
r/o 189, Garikala,
Leader Read, Allahabad.

.....Applicants

(By Advocate : Shri A.K. Dave)

V E R S U S

1. Union of India, through the Secretary,
Ministry of Railways,
Rail Bhawan,
New Delhi.
2. General Manager, Northern Railway,
Baroda House,
New Delhi.
3. Divisional Railway Manager,
Northern Railway,
Allahabad.
4. I.O.W. (Line/Pancham), Northern Railway;
Allahabad.

.....Respondents

(By Advocate : Shri A. Tripathi)

O R D E R

By this O.A., two applicants namely Shri Rajendra Kumar and Pappu have sought a direction to the respondents to absorb them in regular service as Safaiwala in Engineering

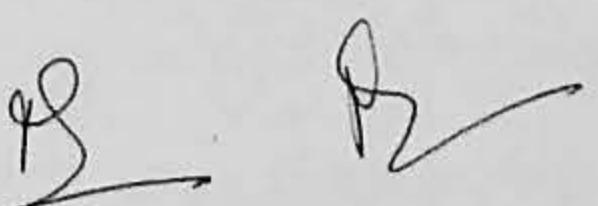


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Department or any other section of the Department in pursuance of the letter dated 06.01.1997 issued by Assistant Engineer and to grant any such relief that this Tribunal deems fit and proper in the facts and circumstances of the case.

2. The brief facts alleged by the applicants are that applicant No.1 was initially engaged as a casual labour on 06.07.1985 and he worked in different spells upto 18.02.1989 for a total period of 237 days. The last working spell as per the applicant's averment was from 10.01.1989 to 18.02.1989 i.e. for 40 days. In support of his contention he encloses as Annexures A-1 and A-2. Similarly, applicant No.2 has stated that he was initially engaged as a casual labour on 06.02.1984 and worked in different spells upto 18.02.1989 for a total period of 233 days. The last working days as admitted by the applicant himself was from 10.01.1989 to 18.02.1989 i.e. for 40 days. In support he has encloses Annexures A-3 & A-4. It is submitted by the applicants that as per Rule 179 of IREM Volume-I, a register should be maintained by all the divisions and the names of casual labour substitute and temporary workman rendering 6 months continuous or broken service had to be entered therein. Therefore, they have presumed that their names were incorporated in the live casual labour register in the Engineering Department.

3. It is further submitted by them that they approached

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the authorities from time to time to get the job and made several representations dated 30.04.1991, 06.11.1996, 08.01.1997 and 10.02.1997 for absorption (Annexure-5), but till date neither they have been absorbed nor any reply has been given to them while junior persons namely Shri Deepak Kumar and Mukesh Kumar have been given appointment by the respondents. They have further submitted that the department issued a direction vide letter dated 31.12.1996 to absorb the unemployed casual labour, whose names have been entered in the live casual labour register. Pursuant to which the Assistant Engineer (A.Q.) Northern Railway, Allahabad issued a letter dated 06.01.1997 calling the names of Ex-Casual Labour or Safaiwala who had worked in the Engineering Department. It is submitted by the applicants that both of them applied for appointment in response to the letter dated 08.01.1997. (Annexure A-7 & A-8), Since no reply was given, they filed another application on 10.02.1997 (Annexure A-9) but since nothing was being done, they had no other option but to approach this Court. The applicants' counsel has submitted that Annexure A2 & A-4 clearly shows that applicants' names were already on the Live Casual Labour Register and since they had already worked in the Engineering Department, they were entitled to be absorbed as per letter dated 06.01.1997.

4. The respondents have opposed this O.A. and have submitted that only those casual labours were called and entertained who had worked as Safaiwala and whose names were borne on Live Casual Labour Register and as for the

applicants are concerned, their names were neither in the Live Register nor any junior to the applicants were appointed as alleged by the applicants. As such the D.A. is totally misconceived and is liable to be dismissed on merits. They have submitted that the applicants have not worked continuously but in different spells between 06.07.1985 to 05.01.1987. It is evident from Annexure A-1 itself and thereafter they had worked in the Medical Department for a period of 40 days during Kumbh Mela. They have thus submitted that since the services of the applicants were not continuously for 180 days, they are not entitled for any regular service. Moreover, they had left the job from Medical Department on their own. As far as Shri Deepak Kumar and Mukesh Kumar are concerned, they have not been appointed in the concerned unit.

5. The respondents have also filed Supplementary Counter Affidavit wherein they have submitted that Annexures A-2 & A-4 are not at all issued by any of the office functioning under the Divisional Railway Manager, Northern Railway, Allahabad. As these two letters bear only the signatures of the applicants and not of any of the authority who have issued the same. In the margin only Chief Health Inspector has verified the actual number of days worked by the applicants during Kumbh Mela in the year 1989. Moreover, they also do not bear any correspondence number or date of issue nor there is any seal which can prove that these letters were issued by any of the officers working under the Divisional Railway Manager, Allahabad. Therefore, at best these letters only show that

applicants had worked for 40 days during Kumbh Mela in the year 1989 and by ^{no} stretch of imagination it can be said that this authenticates that applicants names were entered in the Live Casual Labour Register. They have further explained that the letter which is annexed by the applicants along-with their rejoinder alleged to be dated 21.11.1997 is also a manipulated document in as much as this letter was issued with regard to one individual namely Shri R. Verma son of Late Shri B. L. Verma and the correspondence was with regard to him only and as per the original document, this letter is dated 12.11.1997 and the number of the individuals in Casual Live Register was shown to be 25. The applicants have scored ~~on~~ ^{out B} the office copy as well as the serial no. 25 and have changed the date to 21.11.1997 and incorporated certain names on the left side of the said letter. They have annexed the original letter dated 12.11.1997 with their Supplementary Counter Affidavit and have also produced the original file for the court's perusal. They have further submitted that none of the applicants had worked continuously for 120 days as such the names of the applicants were neither borne on the Casual Live Register of the office of Chief Health Inspector nor in the Engineering wing. They have thus submitted that applicants are not entitled to any relief as claimed by them. The applicants counsel had submitted that even the respondents have filed the letter dated 12.11.97 wherin the cutting is there, therefore, there is no authentic letter available which can be taken as evidence or relied upon. According to him the annexures filed by them

were issued to them as they are and they are not answerable for same, as the same were issued by the department.

6. I have heard both the counsel and seen the pleadings as well as the original record.

7. Both the counsel have relied on number of judgments on either side but I am not referring to them as the case is being decided on different point at the threshold itself. A perusal of annexures shows that no details are given of the person who has alleged to have issued the certificate, neither his name is given nor the place, nor the unit and there is just some initial without any stamp of the officer concerned. Similarly, the letter which is said to have been issued mentioning therein that their names are borne in the Live Casual Labour is neither signed by any authority nor there is any stamp, nor there is any correspondence No., nor any date given on the said letter and interestingly at the place where the signature of issuing authority should be there, applicant has put his own signatures and 'cross' is put in front of designation. Since these documents are not issued by any authority nor any name or designation or date is given in the said letters.

8. In my considered view, no reliance can be placed on such letters. Since the only verification which is authenticated from the Medical Department, it only shows that the applicants had worked for a period of 40 days during Kumbh Mela in the year 1989, and if they were not engaged thereafter, as alleged by them, the applicants should have

appreached the court at that relevant time. Admittedly no such action was taken by the applicants. In the present O.A. also, they are relying on the letter dated 06.01.1997 but perusal of the said letter shows that this was meant only for those Casual Labours who had worked in the Engineering Department. Since there is no authenticated proof given by the applicants that they had worked either in the Engineering Department or their names were in the Live Casual Labour Register. The letter dated 06.01.1997 cannot give any benefit to the applicants.

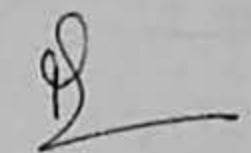
9. I have seen the original records and I am convinced that the applicants had resorted to manipulating the original letter dated 12.11.1997, but the one which is annexed by the applicants as Annexure RA-1 with the Rejoinder shows that it was signed on 21.11.1997. The original letter clearly reads as under:-

"His case has been forwarded as per particular referred by the concern Branch Officer. His name is in Live Casual Labour Register at serial No.25."

This is the office copy of original letter No.220E/EC/CL/S/WALA/LKO whereas Annexure RA-1 annexed by the applicants with their rejoinder also bears the same letter number but the date has been changed, office copy has been scored out, serial No. 25 has been scored out and names of as many as 7 persons have been incorporated on the left side. Since this is the same letter and there are no names in the Original letter on the left side, definitely this letter is a manipulated document. We need not go into the aspects as to who has manipulated and how it is manipulated. Suffice is to say that the document

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annexed by the applicants cannot be relied upon. Since the applicants have not come to the court with clean hand. I do not think they deserve any consideration. Accordingly, this O.A. is dismissed with no order as to costs.



MEMBER (J)

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