

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Original Application No. 362 of 1998

Allahabad this the 30th day of September, 2002

Hon'ble Mr.A.K. Bhatnagar, Member (J)

Ram Ashis, Son of Ganga Bishun, Resident of Village  
Kathnahia, Post Police Deoria, Pargana Salempur  
Majauli, District Deoria.

Applicant

By Advocate Shri Vinay Kr.Srivastava

Versus

1. Union of India through its General Manager,  
North Eastern Railway, Gorakhpur.
2. Divisional Rail Manager, North Eastern Railway,  
Sonapur.
3. Station Superintendent, North Eastern Railway,  
Varanasi.

By Advocate Shri Amit Sthalekar

O R D E R ( Oral )

By Hon'ble Mr.A.K. Bhatnagar, Member (J)

This O.A. has been filed under Section  
19 of the Administrative Tribunals Act, 1985 praying  
for issue of a direction to the respondents to  
regularise the services of the applicant on the  
post of Hamal after due screening and respondents  
be further directed to screen the applicant as the  
number of juniors have already been screened and to  
make payment of wages since July, 1997 which was  
arbitrarily withheld by the respondents without

*Asw*



any positive order and further direct the respondents to make payment of salary since April, 1997 to August, 1997.

2. The brief facts as per the applicant are that the applicant was initially appointed as casual labour in the year 1981-82 and have worked on the post of Hamal. As per the applicant he has worked since 1981 to 1983 and again in 1988-89 at different stations. He has also worked as casual labour from 14.01.1991 to 31.01.1991 under Inspector of Works, N.E. Railway, Madhosingh. The applicant claims that he has acquired temporary status after completing 120 days continuous service. He also claimed that he had been continuously representing the respondents to permit him to discharge the duties but the respondents have not considered the request for working on the said post. It is also stated that the applicant is working since <sup>April,</sup> 1997 to August, 1997 on the post of Hamal at Ratan Sarai station. The applicant has alleged that he had not been given the salary since 25.04.97 till 27.08.97, although he has <sup>ed</sup> performing his duties in this period as Hamal. Learned counsel for the applicant has submitted that the applicant had made a representation dated 27.08.97 for payment of his salary from 25.04.97 to 27.08.97 to Divisional Railway Manager(P), N.E. Railway, Varanasi, which has not yet been decided by the respondents. Hence he has filed this O.A.

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3. Learned counsel for the respondents has submitted that the applicant has not exhausted the departmental remedy available to him and his initial appointment was made without prior approval of the General Manager of the concerned railway. It is submitted that the applicant has worked in different broken periods with a long gap. Learned counsel for the respondents has invited my attention to para-4 of the counter-affidavit in which he has given a detailed chart of the so called working period of the applicant. He has further submitted that at the time of initial engagement of the applicant there was a complete ban on engagement of fresh faces as casual labours vide Railway Board No.E(NG)4/80/CL/5 dated 18.12.1980 except with the prior approval of the General Manager and there was no approval of General Manager in the case of the applicant. As per respondents, the applicant has worked only for two spells in Sonpur division i.e. 24 days and 40 days respectively, which does not make the applicant entitled for grant of temporary status or for regular absorption on Group 'D' post on Sonpur division. Learned counsel for the respondents has submitted that the counter-reply was <sup>filed</sup> on 26.08.99 but till today no rebuttal in the form of rejoinder has been filed by the applicant ~~till today~~. As regards the payment of wages for performance of duty under Station Superintendent, Ratan Sarai, Varanasi, the respondents have stated that ~~the~~ bill was prepared in the office of DRM (P), Varanasi, which has been seized by the Vigilance Organisation, Gorakhpur as the vigilance inquiry was going on. In view of the facts mentioned in the counter, the respondents have prayed for dismissal of the O.A.



4. Learned counsel for the applicant has submitted that he does not want to file the rejoinder affidavit:

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

6. As both the learned counsel are unaware about the latest position of the matter in dispute *regarding wages*, I am of the opinion that it would be appropriate to direct the respondents to decide the representation dated 27.08.97(annexure-5) filed by the applicant within the stipulated period. Learned counsel for the applicant has also made a prayer to direct the respondents to decide the applicant's representation. Accordingly I direct the respondent no.2 to decide the representation dated 27.08.97(annexure-5) of the applicant within a period of 4 months from the date of receipt of this order and pass a detailed, reasoned and speaking order. The O.A. stands disposed of accordingly. No order as to costs.

  
Member (J)

/M.M./