

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 24th day of November 2000.

Original Application no. 39 of 1998.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Virendra Kumar Tewari, S/o Ram Ratan,
R/o Village and Post Bari Bandhauli, Orai,
Distt. Jalaun.

... Applicant

C/A Shri R.K. Rajan

Versus

1. Union of India through the Secretary,
Ministry of Railway, Rail Bhawan,
New Delhi.
2. The General Manager, V.T. Mumbai.
3. The Divisical Railway Manager, Jhansi.
4. The Station Superintendent, Orai, Jalaun.

... Respondents

C/Rs. Shri G.P. Agarwal

O R D E R(Oral)

Hon'ble Mr. Justice R.R.K. Trivedi, VC

By this OA under section 19 of the A.T. Act,
1985, the applicant has prayed for following reliefs:-

a. A direction may be issued to the respondents
to re-engage the applicant in service as juniors
have been re-engaged.

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b. A direction may be issued to the respondents to verify the record and pay sheets and as such give all the privileges and benefits to the post of temporary status to the applicant.

2. The facts stated in the OA are that the applicant was appointed as Waterman on 1.4.80. He was granted temporary status w.e.f. 2.4.86 which was communicated to him by DRM's letter dated 22.5.87 filed as annexure 3 to the OA. The applicant was also given casual labour card, which he has filed as annexure 1 to the OA. For purpose of regularisation, the applicant was examined medically on 22.5.87 and he was found fit in category B-1. Learned counsel for the applicant has submitted that after ~~of~~ ^{long service} this long service the applicant was not allowed to work w.e.f. 22.7.91. Learned counsel for the respondents on the other hand submitted that the applicant was not conferred temporary status. He has placed reliance on the averment made in the Counter Affidavit. However, on perusal of para 8 of the counter affidavit it cannot be said that the facts asserted in the OA ^{regarding temporary status which is unopposed} conferment by the documents has been controverted, in the manner it should have been done. The documents filed communicating the conferment of temporary status has not been denied. The existence of the documents has not been disputed. In these circumstances this Tribunal has to assume that the applicant had worked for the period which made him entitled for conferment of the temporary status.

There is no dispute about legal position that once temporary status is granted, the employees becomes entitled for certain privileges and one of such privilege is that it ~~should~~ ^{can} not be disengaged ~~inspite~~ ^{except} ~~by~~ order in writing, which has not been done in this case. In the circumstances the ^{dis} engagement was illegal and arbitrary. The applicant has made averment in the OA that he approached the authority several times, but he was not heard and no relief was granted. Learned counsel for the respondents has also challenged the maintainability of the OA on the ground of limitation. However, considering the facts and circumstances and status of the employee, in my opinion the delay in making application deserves to be condoned. Learned counsel for the respondents relied upon the judgment of full bench of this Tribunal in case of Mahabir & Ors Vs. Union of India and others, 2000(3) ATJ 1. The facts of the present case are clearly distinguishable and ends of justice requires that the applicant that the applicant ~~cannot~~ ^{should} be thrown out of the Court on the ground of limitation, as ^{the} disengagement of the applicant ~~has been~~ found illegal. In my opinion, he is entitled for the relief. In similar circumstances a Division Bench of this Tribunal in case of Prahlad & others Vs. Union of India & Others vide judgment dated 10.12.1996 in OA no. 1550 of 1992 gave relief to the casual labourers in the following manner :-

"The names of the applicants shall be entered in the Live Register for casual labour after

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rescreening is completed granting the applicants their rightful place in it on the basis of their period of service. If any of the applicant is able to furnish name/names of his junior/juniors and establish the re-engagement of such person/persons, the respondents are directed to re-engage him and give him all benefits from the date of engagement of his junior/juniors. The respondents are directed to comply with the directions within a period of three months from the date of the application furnish details of their service and date of re-engagement of juniors with their names along with a copy of this judgment."

3. In my opinion the applicant in this case is also entitled for similar relief. The OA is accordingly allowed and the respondents are directed to enter the name of the applicant in Live Casual Labour Register at appropriate place according to his seniority and provide him engagement accordingly. He will not be entitled for back wages. The order of this Tribunal shall be complied with within a period of 4 months from the date of communication of this order.

4. No order as to costs.

Vice-Chairman

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