

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NUMBER:- 812/98

WEDNESDAY, THIS THE 26TH DAY OF MARCH, 2003

HON. MR. JUSTICE R.R.K. TRIVEDI, VICE CHAIRMAN

Surendra,
s/o Late Kapil Deo,
r/o Village and P.O Pidauth
Singhpur,
District:- Mau
presently working as a Casual Safaiwala,
at N.E. Railway Aurihar Junction,
Railway Station.Allahabad.

(By Advocate:-Shri S.K.Om)

Versus

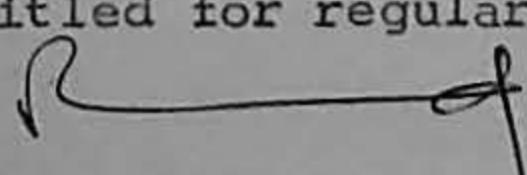
1. Union of India, through
General Manager,
North Eastern Railway,
Gorakhpur.
2. Divisional Mechanical Engineer,
N.E. Railway, Varanasi.
3. Section Engineer (Loco)
N.E Railway Aurihar Junction,
Railway Station.
4. Assistant Mechanical Engineer,
N.E. Railway,
Varanasi.Respondents.

(By Advocate:- Shri K.P.Singh)

O R D E R

By this O.A under Section 19 of Administrative Tribunals Act, 1985, applicant has prayed for a direction to respondents to regularise his services in Class-IV category as Khalasi from the date his juniors have been regularised. He has also prayed for consequential benefits like seniority and arrears of pay etc.

2. The claim of the applicant is that in the list of Safaiwala serving in Mechanical Department, Varanasi, which has been filed as Annexure-3, working days up to 31-12-1987 were mentioned. It is claimed that applicant's name is mentioned at Sl. no. 100 his working days are shown as 89 and thus, he was entitled for regularisation as persons



junior to him with less number of days have been regularised.

3. Respondents have denied the claim of the applicant. Counter reply have been filed. In paragraph '8' it has been mentioned that applicant worked only for 416 days from 1996 to 15-12-1997. The fact that he worked for 612 days has been denied. It has also been denied that applicant was engaged before 31-12-1987 and his name was included in the list. Thus, the question for determination in this case appears to be as to whether the applicant was actually engaged before 31-12-1987 and his name was included in the list (Annexure-3) and he ought have been regularised like others.

4. Learned counsel for the applicant has placed much reliance on a document filed as Annexure-1 in which, ~~.....~~, it is admitted by respondents that name of applicant was mentioned at sl. No. 100 ~~which is not now~~ open to respondents to deny the fact.

5. Shri K.P.Singh learned counsel for the respondents, on the other hand, submitted that the applicant was ~~never engaged~~ before 31-12-1987 and his name was not included in the list, the claim raised is baseless.

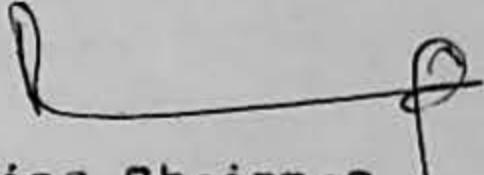
6. I have carefully considered the submissions made by counsel for the parties. In paragraph 4 (1) of the O.A applicant stated that he was initially engaged as Casual Safaiwala on 1-7-1996 at Aurihar, Railway Station in North Eastern Railway and he worked upto

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15-11-1996 and total number of working days were 120 days. It is further claimed that he was again engaged on 16-11-1996 and he worked up to 15-12-1997 in broken spell. Thus, he worked for about 646 days and in total he completed 612 days as on 15-1-1998. In this paragraph the period of 612 days worked is confined between 1-7-1996 to 15-1-1998. There is no mention of the fact that applicant was engaged or he had worked before 1987. It appears that after the counter was filed and applicant noticed (Annexure-1) he changed his stand and started claiming that he was engaged before 15-12-1987 and his name was mentioned in the list (Annexure-3). He also filed a supplementary rejoinder affidavit ~~accepting~~ and the claim he tried to explain the facts stated in para 4(1) of the O.A. However, the claim of the applicant does not appear to be justified. In the supplementary rejoinder affidavit applicant has mentioned his age ^{as} 34 years. This affidavit was prepared on 12-5-2002. A rough calculation of the age of the applicant is taken on the basis of supplementary rejoinder affidavit, he could not have been engaged before 15-12-1987 as he would have been minor. The list (Annexure-3) was prepared for the working days up to 15-12-1987. The applicant filed certificate as Annexure-1 for 612 days working which was confined from 1996 to 1998 and the stand taken by the applicant ^{has} ^{been mentioned} in the certificate. Correct position ought to have been mentioned even in list (Annexure-3). Name of the father of the applicant was not mentioned. It has been written by hand.

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7. Considering all these facts and circumstances a serious doubt arises about the claim of the applicant and he is not found entitled for the relief. The D.A has no merit and is accordingly rejected. No order as to costs.



Vice Chairman

Madhu/