

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad : Dated this 31st day of October, 2001.

Original Application No.997/1999.

CORAM :-

Hon'ble Mr. Rafiquddin, J.M.

Chandra Bhan Son of Sri Babu Ram,
Resident of Village Katari,
Post Office-Kesri, Tehsil Shikohabad,
District-Mainpuri.

(Sri S. Dwivedi/Sri A. Dwivedi, Advocates)

..... Applicant
Versus

1. Union of India through the Secretary, Ministry of Railways, Government of India, New Delhi.
2. The General Manager, Northern Railways, Baroda House, New Delhi.
3. The Divisional Railway Manager, Northern Railways, Allahabad.

(Sri G.P. Agarwal, Advocate)

..... Respondents

O R D E R (O_r_a_l)

By Hon'ble Mr. Rafiquddin, J.M.

The applicant Sri Chandra Bhan has filed this OA for direction to the respondents to include his name in the live casual register and engage and appoint him against vacancy of Group 'D' Category.

2. I have heard counsel for the parties and perused the record carefully.

3. It has been categorically admitted by the respondents that the name of the applicant has already been recorded in the Divisional Casual Live Register at Serial No.5439. Besides, his name is also recorded in the Live Casual Register of AEN at Serial No.154. Therefore, the relief sought by the applicant is for including his name in the Live Casual Register ^{becomes} ~~infunctious~~.

4. The only point for determination is whether the applicant is entitled for regularisation or for appointment in Group 'D' post or not? It is alleged by the applicant that several persons including four

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persons mentioned in para 10 of the OA, namely, Amir Haroon, Ram Chander, Rashid Akhtar Khan and Mohd. Shamim Khan ^{who} were junior to the applicant, have been re-engaged as regular. It is also alleged that the aforesaid persons have been appointed as fresh candidates under respondent no.3 who have never worked in the Department of Railways as casual workers and they have been given regular appointment under the order of higher authorities ignoring the claim of the applicant for regularisation of service. It is also pointed out that Sri Prem Pal Talwar, Sri Munni Babu and Sri Narottam, who were working at Hathras alongwith the applicant and whose services were also terminated ^{along with his service} ~~on the said date~~, have also been re-engaged and regularised on the basis of the order dated 7-8-1992 passed by the Principal Bench of the Tribunal in OA No.2275/1990 filed by the aforesaid persons. It is also stated that these persons are junior to the applicant. In support of his contention learned counsel for the applicant has filed a photocopy of the appointment letter of Shri Amir Haroon and three others as Annexure-A-2 in which it is stated that these candidates have been approved by the General Manager in Group 'D' category of this Division in a unit where there is no body on Live Casual Labour Register. A copy of the order dated 7-8-1992 passed in OA No.2275 of 1990 has also been filed as Annexure-A-4 in which directions were issued to the respondents to examine the case of the applicant to ascertain whether they have worked for more than 120 days and to re-engage ^R ~~re-engage~~ them as casual labour in the zone where they were working, failing which in other zones where there was vacancy and in case it is found that some of the

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applicants have worked for less than 120 days, their names shall be entered in the Live Casual Labour Register and be engaged as causal labour if vacancies exist in preference to their juniors and outsiders. It is stated that the Railway in compliance of the aforesaid order reinstated all the applicants and since the applicant is also similarly situated person, he is also entitled for re-engagement/reinstatement because the applicant for the first time came to know about the order ^{R on} dated 11-1-98. The applicant, therefore, submitted his representation to the D.R.M. Allahabad on 12-1-1998 and made request for re-engagement/absorption but since no decision was taken by the respondents, he filed the present OA.

3. Learned counsel for the respondents on the other hand contended on the basis of pleadings that since the applicant has approached this Tribunal after 22 years from the date of his engagement, he cannot be re-engaged and he has attained the age of 45 years, he could not claim relief for reinstatement/absorption. However, since the name of the applicant has already been entered in the casual live register this argument has no force. The applicant has a recurring cause of action and it is also not material for his re-engagement. Learned counsel for the applicant further argued that till decision in the OA No. 2275/1990 was delivered in 1992, the applicant could not seek parity with the applicants of that OA. The OA of the applicant is, however, basically based on the casual live labour register in which his name is duly recorded. Under these circumstances the main point for consideration is whether any junior person to the applicant, whose names are recorded in the casual labour register have been engaged by the respondents. The case of the

respondents disclosed in their counter affidavit on this point is not very clear because it has been merely stated that the persons mentioned in para 10 are not working under AEN, Firozabad and respondent no.3 is not the appointing authority of persons mentioned in the paragraph. It is not made clear whether any person junior to the applicant has not been engaged under Allahabad Division of Northern Railway.

4. Under these facts and circumstances the OA is disposed of with the direction to the respondents to consider the case of the applicant for his re-engagement/absorption if it is found that any person junior to the applicant whose name was recorded in the casual labour register maintained at Division as well AEN level has been engaged/absorbed by the respondents and to consider and pass appropriate orders on the representation submitted by the applicant, copies of which are annexed as Annexures-A-3 and A-4 to this OA within a period of three months from the date of communication of a copy of this order. No costs.

Ramgopal
Member (J)

Dube/

under circulation.

IN THE CENTRAL ADMINISTRATIVE TRI BUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

Review Application No. 99 of 2001.

IN

Original Application No. 997/98
this the 17/1/ day of January 2002.

HON'BLE MR. RAFIQ UDDIN, MEMBER(J)

Chandra Bhan, S/o Sri Babu Ram, R/o Village Katari, PO Kesri,
Tehsil Shikohabad, District Mainpuri.

Applicant.

Versus.

1. Union of India through the Secretary, Ministry of Railways, Govt. of India, New Delhi.
2. The General Manager, Northern Railway, Baroda House, New Delhi.
3. The Divisional Railway Manager, Northern Railway, Allahabad.

Respondents.

O R D E R

This Review petition has been filed seeking review of the order dated 31.10.2001 passed by this Tribunal in O.A. No.997/98. The operative portion of the order is as under :

"Under these facts and circumstances the O.A. is disposed of with the direction to the respondents to consider the case of the applicant for his re-engagement/absorption if it is found that any person junior to the applicant whose name was recorded in the casual labour register maintained at Division as well AEN level has been engaged/absorbed by the respondents and to consider and pass appropriate orders on the representation submitted by the applicant, copies of which are annexed as Annexures A-3 and A-4 to this O.A. within a period of three months from the date of communication of a copy of this order. NO costs."

2. It is alleged that while dictating the order to the Steno in the operative portion of the order, the following dictation was given by the Court:

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"the original application is disposed of with the direction to the respondents to consider the case of applicant for his reengagement/absorption if it is found that any person junior to the applicant whose name was recorded in the Live Casual Labour Register maintained at Division as well as AEN level or any out sider has been engaged/absorbed by the respondents."

3. I have perused the record and I find that the applicant seeks review of the order, which is beyond the scope of review jurisdiction. The order was correctly dictated and transcribed by the Steno. There is no material on record to suggest or to show that the words 'or any outsider' was dictated to the Steno. The order was passed after taking into account all the facts and circumstances of the case. The Review Petition is, therefore, misconceived and is rejected.

D. Girish

MEMBER (J)

GIRISH/-