

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1282 of 1998

Allahabad this the 6th day of June, 2001

Hon'ble Mr.S.K.I. Naqvi, Member (J)

Mukundi, aged about 46 years, Son of Shri Dharma,
resident of Village and Post Garhia, District Jhansi.

Applicants

By Advocate Shri Ram Kr. Nigam

Versus

1. Union of India through General Manager, Central Railway, Mumbai CST.
2. Chief Workshop Manager, Central Railway, Jhansi.
- 2A. Shri Anil Mishra, Chief Workshop Manager, Central Railway, Jhansi.

Respondents

By Advocate Shri G.P. Agarwal

O R D E R

By Hon'ble Mr.S.K.I. Naqvi, Member (J)

Shri Mukundi has preferred this O.A.

seeking following reliefs;

"to issue a writ, order or direction in the nature of MANDAMUS commanding the Respondents through a time bound order to immediately issue appointment order in favour of the petitioner for the post of Khallasi in grade Rs.750/940(RPS) 2550-3200(RPRS) with full back wages together with heavy damages to be awarded officially as well as personally against Respondent No.2/2A

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for grossly defying the orders dated 20.5.93 Annexure A-I and 1-11-95 (annexure A-II) ignoring the fact that Headquarters sanction has been obtained and verification report of the casual labour card etc. has already been obtained but even though the appointment order in ~~the~~ favour of the petitioner has been delayed through his several other counterparts have been absorbed."

2. As per applicant's case he was engaged as casual labour on 31.10.1974. He was subjected to screening and thereafter medically examined for permanent absorption as Khalasi but the juniors to him were absorbed ignoring the applicant, for which he filed the O.A.No.917 of 1988 Mukundi Vs. Chief Workshop Manager, Jhansi, which was decided on 20.5.1993 with the direction to the respondents to accord temporary status to the applicant after verifying from the record and if he has worked for sufficient number of days as required under the extant rule, within a period of 3 months from the date of communication of this order.

3. The respondents preferred a review petition against ^{that} ~~this~~ order, which was ^{decided} against the respondents as per order dated 01.11.1995, but inspite of these two years and direction by Headquarter Office to honour the Tribunal's Judgment, the respondents did not implement the direction and, therefore, this O.A.

4. The respondents have contested the case, filed the counter-reply with the specific mention

that the case of the applicant was examined as per direction by the Hon'ble Tribunal, but he could not be given ^{any} service status because he was not found qualified as per extant rule in this regard which requires fulfilment of certain working days and ~~also~~ also that he should have class Vth pass educational qualification, which the applicant does not have. As per record, he is only class II passed person.

5. Considered the arguments placed from either side and perused the record.

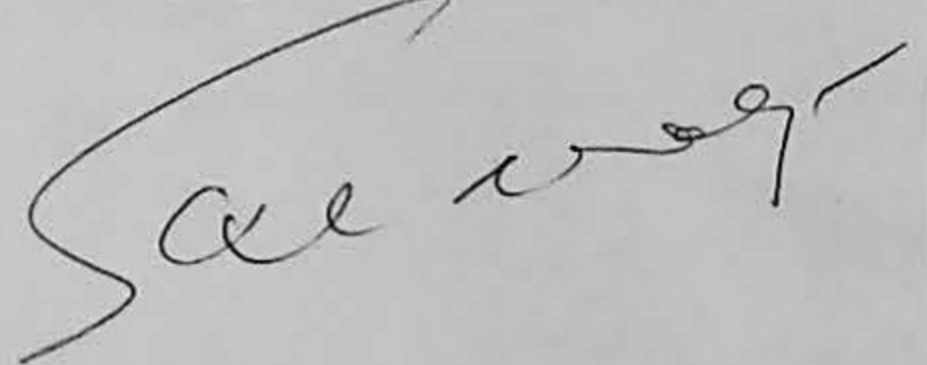
6. It cannot be disputed that the direction in O.A.No.917/88 has been clarified in the review petition decided on 01.11.95 and the phrase "under the extant rules" has been clarified as it could cover a contingency regarding the requirement as per extant rules, but it is also quite evident that the question of educational qualification was not raised or discussed in O.A.No.917 of 1988 or in a petition to review the same. The reference of extant rules was only ^{with} regarding ^{to} the sufficient number of working days ^{and not} regarding requirement of educational qualification. The respondents have failed to bring on record ^{any} specific reference to such a rule nor any copy of rule has been filed ^{that} and provides the requirement of educational qualification for a casual labour. The screening report dated 15.4.1985 (annexure A-1) has also no reference to any educational qualification.

7. ^{Whatsoever} the position might have been, but it was ^{expected} accepted from the side of the respondents

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to have passed a definite and specific order in compliance of direction by the Tribunal in the above referred matter to show that due compliance has been made in this regard, which has not been done, indicating that the respondents took the matter very lightly.

8. For the above, the competent authority in the respondents establishment is directed to re-consider the whole matter and pass appropriate order with specific reference to law and rules in this regard. The order be passed within three months from the date of communication of copy of this judgment. The O.A. is decided accordingly. No order as to costs.



Member (J) ●

/M.M.9