

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.133 OF 2001
ALLAHABAD THIS THE 30TH DAY OF APRIL,2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Brij Kishore Ram,
Son of Late Ram Sohaqa Ram,
Resident of House No.112/2 A-1,
Jayantipur, Sulemsarai,
Allahabad.

.....Applicant

(By Advocate : Shri Sudama Ram)

Versus

1. Union of India,
through the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Principal,
Indian Railways Track Machine,
Training Centre,
Post Office,
Peepal Gaon,
Allahabad.
3. The Dy. Chief Engineer,
T.T., C.P.O.H. Workshop,
Allahabad.

.....Respondents

(By Advocate : Shri A.K. Gaur)

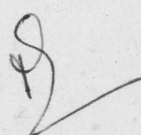
ORDER

By this O.A. applicant has sought a direction to
the respondents to engage the applicant either on the post



of Safaiwala in Indian Railway Track Machine Training Centre, Peepal G_on, Allahabad or to pass any such order or direction that may be deemed proper in the circumstances of the case.

2. It is submitted by the applicant that he was initially engaged as Casual Labour on 11.06.1985 in Indian Railway Track Machine, Training Centre, Allahabad and worked upto 20.08.1987 from time to time. Thereafter he was dis-engaged. Applicant's name was registered in the Casual Labour Live Register and since he had given his declaration that he was willing to work, his name is given ^{at sl no 18} in the Priority Register. He was also informed that there was no post available vide letter dated 30.11.1990 and he shall be considered whenever the vacancy becomes available (Page 24). It is submitted by the applicant that in 1993 one Shri Vishwanath, who had worked with the applicant, was regularised as Khalasi (Page 25) ignoring the applicant. Therefore, he gave his representation as he was junior to the applicant and he has also invited my attention to letter dated 13.05.1991 whereby applicant was informed that the posts which has become available are not permanent (Page 27). Thereafter it is submitted by the applicant that seven posts of Safaiwala were created, where applicant had worked as Casual Labour. Therefore, on 04.08.1997 applicant applied against those posts (Page 28). Vide letter dated 30.03.1998 applicant and another persons were recommended by the Indian Railway Training Centre to the DRM, Allahabad as these posts were to be filled by Division but thereafter he was not informed about the said posts nor he was appointed against those posts. The only communication he got was from the office administration vide letter dated 16.01.1999



whereby applicant was informed that his case has been referred to the concerned officer for necessary action (Page 31). Since no positive action has been taken by the respondents therefore, applicant was forced to file the present O.A..

3. This O.A. is opposed by the respondents who have submitted that this O.A. is liable to be dismissed on the ground of limitation as applicant had last worked in the year 1987 and as per his own averment he was dis-engaged thereafter. Therefore, the present O.A. is not maintainable on merits. They have submitted that applicant was appointed as Casual Labour with effect from 11.06.1985 to 20.08.1987 without break in service and was dis-engaged after 20.08.1987 due to non-availability of sanctioned posts. They have further explained that Shri Vishwanath was working from 01.10.1985 and was transferred and spared to Divisional Cash Office, Northern Railway, Allahabad, alongwith his complete service record and this was stated by the then Principal. Shri K.P. Mathur, vide letter dated 07.11.1990 ^{stated} that Vishwanath Mehrotra had worked in the Railway before Shri Brij Kishore and he has given even the C.P.C. scale, Whereas applicant has been terminated from his duty as he was not able to show the Casual Labour card prior to 01.08.1978. As far as seven posts are concerned, respondents have stated that although seven posts of Safaiwala was sanctioned by the General Manager (P), on 11.06.1997, no decision has been taken due to no matching surrender against these posts arranged by Headquarter office. In this connection, number of letters have been written but due to non-receipt of matching surrender ^{filed} from the Headquarter office, the case of the applicant for re-engagement was kept pending and in view of non-receipt of ^{non} Matching

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^{posts B}
surrender, no appointments could be made in the unit of respondents. As such, applicant cannot have any grievance nor can the relief as claimed by the applicant, ~~can~~ be given to him.

4. I have heard both the counsel and perused the pleadings as well.

5. Contention of the respondents is that this O.A. is barred by limitation ^{and} /is not sustainable in law, in view of the subsequent letters written by the respondents themselves to the applicant.

6. Admittedly seven posts were created in the Training Centre but no appointments could be made to the training centre as Headquarter had not sent the Matching Surrender posts, as a result of which respondents have stated this that the case of applicant was kept pending. It is not the case of applicant that any other person junior to the applicant had been appointed, thereafter ^{against B} ~~in~~ the seven said posts. Therefore, no positive direction can be given to the respondents to appoint the applicant. However, since applicant had already given his option that he was ^{B prepared B} ~~prepared~~ to work as a Safaiwala and his name was ~~to be~~ at serial no.1 in the seniority list maintained by the respondents and his name was already recommended by the Principal of Training Centre to the Division to consider him for appointment, I can only direct the respondents to consider the case of applicant whenever the said vacancy of Safaiwala are decided to be filled up ^{by respondents B} in accordance with law.

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7. With the above directions this O.A. is disposed off with no order as to costs.

A handwritten signature in dark ink, consisting of a stylized 'S' or 'J' shape with a long horizontal stroke extending to the right.

Member-J

/Neelam/