

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Dated : This the 18th day of November 2002.

Original Application no. 1344 of 2001.

Hon'ble Maj Gen K K Srivastava, Member (A).

Chandra Mani, S/o Paras Nath,
R/o Village Narottampur, Post Office Umarha (Aurai),
Distt. Sant Ravidas Nagar (Bhadohi).

... Applicant

By Adv : Shri S.D. Pandey

Versus

1. Union of India through General Manager,
Northern Railway, Baroda House,
NEW DELHI.
2. Chairman Railway Recruitment Board,
Northern Railway,
ALLAHABAD.

... Respondents

By Adv : Shri A.K. Gaur.

O R D E R

Maj Gen K K Srivastava, Member (A).

In this OA, filed under section 19 of the A.T. Act, 1985, the applicant has challenged order dated 03.05.2001 passed by the Chairman, Railway Recruitment Board (in short RRB), Northern Railway, Allahabad, rejecting the claim of the applicant keeping his name in Live Casual Labour Register (in short LCLR). The applicant has prayed that the respondent no. 2 be directed to place the applicant's name in LCLR and also to re-engage the applicant in service and regularise in Group (D) category in view of his junior having been regularised in Group 'D' by quashing the impugned order dated 03.05.2001.

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2. The facts, in short, giving rise to this OA are that the applicant was engaged under respondent no. 2 for writing work on casual basis on 25.07.1983. He continued to work till 26.02.1984. After 26.02.1984 he was not allowed to perform his duties. Aggrieved by this the applicant has filed this O.A. which has been contested by the respondents by filing counter affidavit.

3. Shri S.D. Pandey, learned counsel for the applicant submitted that the applicant has worked continuously for more than 210 days and he is in possession of Casual Labour Service Card bearing no. 233153. Instead of granting temporary status to the applicant, the respondents have illegally terminated his services. Juniors to the applicant, similarly engaged, are allowed to continue as casual labour in the Railway administration and have been absorbed in Group 'D' category.

4. Learned counsel for the applicant submitted that the applicant made several requests to the authorities concerned for re-engagement, also approached them personally besides making representations, last being dated 12.04.1996, but the authorities did not consider the right-ful claim of the applicant.

5. Learned counsel for the applicant finally submitted that the legal position is well settled by the Hon'ble Supreme Court that those casual employees who worked for more than 240 days regularly with ~~smaller~~ smaller breaks are entitled for regularisation in their concerned department. The applicant has worked for more than 210 days with smaller breaks under Permanent Way Inspector (in short PWI), Inspector of Works

(in short IOW) Allahabad and other places. Besides he also argued that this Tribunal in its order dated 10.01.1993 passed in O.A. no. 439 of 1992 Baba Deen & others Vs. Union of India & Others has held that ^{in respect of} those persons who have worked for more than 210 days obviously certain rights accrued in their favour. Therefore, the learned counsel for the applicant impressed upon the points that the applicant is entitled for inclusion of his name in the LCLR and also for regularisation as has been done in respect of his juniors.

6. Shri A.K. Gaur, learned counsel for the respondents, resisting the claim of the applicant submitted that the order dated 03.05.2001 passed by the Chairman, RRB, Allahabad is a reasoned order and in view of the same the applicant is not entitled for any relief claimed for. The respondent's counsel submitted that the applicant had to be appointed as a casual labour only after obtaining permission of the General Manager, N. Rly., which was not done. The legal position is well settled in this regard that after 01.03.1981 only the General Manager is competent to accord permission to appoint one as a casual labour. In the instant case, the applicant was appointed on 25.07.1983 ie much after the cut off date without permission of General Manager, Northern Railway, Baroda House, New Delhi, ^{and} he is not entitled for any concession.

7. Learned counsel for the respondents also submitted that the age of the applicant is more than the maximum age for recruitment of Group 'D' staff. This point has been duly clarified in para ii of the impugned order dated 03.05.2001. Learned counsel for the respondents finally submitted that the applicant has not given any ^{any details in} denial on the basis of which

he is pressing for the relief.

8. I have heard learned counsel for the rival contesting parties, carefully considered their arguments and closely perused records. Counter Affidavit and Rajoinder Affidavit have been exchanged and I have perused the pleadings thereⁱⁿof.

9. It is not disputed that the applicant ~~has~~ worked as Casual Labour in the establishment of respondent no. 2 ⁱⁿ from 25.07.1983 to 26.2.1984. During 1983, the Railway Recruitment Board was known as Railway Service Commission. The applicant has also produced record of service as casual labour card no. 233153 issued by the then Railway Service Commission. It is also not disputed that the Railway Service Commission (now known as Railway Recruitment Board) is a subordinate unit under the General Manager, Northern Railway. I find substance in the submission of learned counsel for the respondents that the casual labour could ^{not} be employed before obtaining the permission of the General Manager, Northern Railway, after cut off date i.e. 1.3.1981. The then Chairman, Railway Service Commission, who ^{has} appointed the applicant on 25.7.1983 ^{did not} ⁱⁿ ⁱⁿ obtaining the permission of the General Manager. From perusal of records, it appears that the required permission of the General Manager, Northern Railway was not obtained by the then Chairman, Railway Service Commission. Therefore, the applicant will not be entitled for the relief.

10. From perusal of paragraph 2 of the impugned order dated 3.5.2001, the age of the applicant is more than the maximum age for recruitment of Group 'D' staff. No appointment can be made against the provisions of the Rule. Since the applicant is already over age, I find no illegality committed by the respondent no. 2 in issuing the impugned order dated

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03.05.2001 (Ann A1).

11. The applicant had raised the similar controversy before this Tribunal by filing O.A. 990 of 1996, which was disposed of by order dated 27.11.2000 by the following order:-

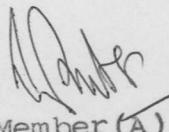
"Under the circumstances, I direct the respondent no. 2 to consider the claim of the applicant for placing his name on Live Casual Labour Register for casual labour within a period of 3 months from the date of communication of this order and inform the applicant of the decision taken. The O.A. stands disposed of with the above direction."

The direction was given to the respondent no. 2 to consider the claim of the applicant and the respondents have considered the same and have issued a reasoned order dated 3.5.2001 (Ann A1) which ~~h~~ ~~h~~ been impugned. The respondent no. 2 has advanced the reasons for rejecting the claim of the applicant. Here I would like to observe that though the applicant was disengaged w.e.f. 27.2.1984, he raised the issue only in the year 1996 by filing O.A. 990 of 1996 i.e. after more than 12 years. Therefore, the submission of the respondents that records prior to 10 years have been weeded out as per the circular issued by the Railway Board has substance and in absence of the records, the respondents cannot verify the working of the applicant. The applicant also failed to give the name of juniors who have been engaged and mere submission of this facts will not entitle ^h the applicant for re-engagement.. Under the circumstances, I find no good ground to intervene. The O.A. is devoid of merit and is liable to be dismissed.

12. In the facts and circumstances and ~~h~~ aforesaid discussions the O.A. is devoid of merit and the same is dismissed accordingly.

13. There shall be no order as to costs.

/pc/


Member (A)