

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 10TH DAY OF SEPTEMBER, 2002

Original Application No.651 of 2001

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MR.S.DAYAL, MEMBER(A)

1. Jagannath, son of Sri Daleep  
R/o Babhnawaliyan, P.O.  
Sarahula Tehsil Zamania, district  
Ghazipur.
2. Ambika, S/o Sri Bhola, R/oGajaheen  
P.O.Bhadura Tehsil Zamania district  
Ghazipur.
3. Sidhnath, S/o Sri Sheo Gahan  
R/o Village Lalganj, mathia, R/o  
Mahdah, district Bhojpur.
4. Mahendra Rai, Son of Late  
Sheo nath, R/o Village & P.O. Sewrain  
District Ghazipuri(UP)
5. Harey Ram, Son of Sri Ram dayal,  
Village and post Baruna, district  
Buxer
6. Ram Bachan, Son of Liladhar, village  
and post office Baruna, district  
Bhojpur.

... Applicants

(By Adv: Shri B.N.Singh)

Versus

1. Union of India through  
General Manager, Eastern Railway  
Habara District, Kolkata
2. Divisional Rail Manager, Eastern  
Railway, Danapur, District Patna
3. Senior Divisional Superintending  
Engineer, Eastern Railway,  
Danapur district, Patna.
4. Assistant Engineer, Eastern  
Railway, Buxer.

... Respondents

(By Adv: Shri K.P.Singh)






O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA u/s 19 of A.T.Act 1985 applicants have challenged the order dated 16.4.01 passed by respondent no.3, Senior Divisional Superintending Engineer, Eastern Railway, Danapur. They have also prayed for a direction to treat the applicants 1 to 3 and 6 in service.

The facts of the case are that applicants 1 to 3 and 6 and late Sheonath and late Ram Dayal joined Railways as casual gangman. They were given CPC scale after serving for necessary period. It appears that thereafter they were medically examined, however, they were not found medically fit. By order dated 20.8.1988(Annexure 1), a list was forwarded by Assistant Engineer, Eastern Railway Buxer to Senior Divisional Engineer, Eastern Railway Danapur for disposal of the cases of the gangman CPC who were decategorised,. This list included names of 7 applicants including Ram Dayal and Sheonath. By another order dated 21.10.1988 they were sent to join at Patna junction. The position is clear from Annexure CA-3 also which is of 1.11.1988. When the applicants approached Patna junction for permission to join, from there by order dated 11.11.1988 they were asked to go to Buxer for work. The applicants then approached I.O.W Buxer but they were not allowed to work. From these four letters it appears that from August 1988 to November 1988 they were not permitted to work at any place. The applicant's case is that from Buxer they were asked to go to Dildar Nagar. Frustrated by inaction on the part of the respondents, they filed OA No.1406/92 in this Tribunal which was disposed of finally by order dated 16.8.2000 with the following direction:






" The application is finally disposed of with a liberty to the applicants to make a representation before Senior Divisional Electrical Engineer, Eastern Railway Danapur (respondent no.3). If representation is filed within two weeks, it shall be considered and decided within three months by a reasoned order after hearing the applicants and in the light of the order dated 11.11.1988."

In pursuance of the aforesaid order applicants filed representation which had been rejected by the impugned order dated 16.4.01, aggrieved by which applicants have approached this Tribunal again by filing the present OA. It may be stated here that two applicants namely Sheonath and Ram Dayal died during pendency of the OA 1406/93. Their sons were substituted and they are parties here as applicant No.4 Mahendra Ram, son of Sheonath and applicant no.5 Hare Ram son of Ram Dayal.

Shri B.N.Singh counsel for the applicants has submitted that the respondent no.3 has failed to decide the real issue involved in the present case. He has simply said that as the official documents do not support the claim of the applicants that they actually approached his office to join for further duty, they are not entitled for any relief. It is submitted that employment of the applicants never ceased by any order passed by the Competent Authority. They were CPC Gangman and for terminating their services a notice was required under rules which in the present case has not been done. The respondents had no occasion but to allow applicants to work on the post for which they were medically certified after decategorisation which in the present case has not





been done. It is submitted by the learned counsel for the applicant that on account of arbitrary and harassing attitude adopted by the respondents these applicants have been kept out of job for such a long time for which they cannot be blamed in any manner.

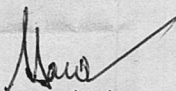
Shri A.V.Srivastava learned counsel for the respondents on the other hand, submitted that applicants never approached authorities for the work and they cannot claim any relief now. He has tried to justify the impugned order.

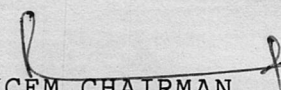
We have carefully considered the submissions of the counsel for the parties. From perusal of the documents filed alongwith the counter reply, it is clear that after the applicants were decategorised they were not allowed to work and they were being simply sent from one place to another under the pretext that they will be provided work there. The fact is that right from August 1988 to November 1988 they were not allowed to work. In their representation they claimed that on 12.8.1992 Assistant Engineer Buxer asked the applicants to go to PWI Dildar Nagar for the work. They approached PWI, Dildar Nagar who refused to give duties to the applicants. Respondent no.3 has failed to consider all these facts for deciding the claim of the applicants. This Tribunal by order dated 16.8.2000 gave a clear direction that the claim of the applicants shall be decided in the light of the order dated 11.11.1988. Respondent no.3 has failed to consider the impact of the order and also the fact that once applicants were conferred the temporary status and given CPC scale, their services could not come to an end automatically. A definite procedure is prescribed under rules which was never followed. The applicants are entitled to be taken back on job. In



our opinion, the order is wholly illegal, arbitrary and cannot be sustained. The applicants were compelled to file OA in 1992 which unfortunately remained pending upto 2000.

The next important question is what relief may be granted to the applicants. There is no doubt <sup>that</sup> they are entitled for a direction for immediate reinstatement on the job for which they were medically found fit. For the period applicants were not allowed to work, in our opinion they are entitled for 30% of the back wages, for which they might have been entitled in the CPC scale. So far as late Sheonath and Late Ram dayal are concerned, their heirs will be entitled to receive the amount till the date of their death. No order as to costs.

  
MEMBER(A)

  
VICEM CHAIRMAN

Dated: September 10th, 2002

UV/