

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
THIS THE 19th DAY OF APRIL, 2007

Original Application No.677 of 2001

CORAM:

HON.MR.JUSTICE KHEM KARAN,V.C

Hari Narain Yadav, S/o Sri sukhran
R/o Village- Jammui, Post Karaha
District Mau.

.. Applicant

(By Adv: Shri B.Tiwari)

Versus

1. Union of India through the General
Manager, N.E. Railway, Gorakhpur.
2. Divisional Rail Manager,
N.E. Railway, Varanasi

.. Respondents

(By Adv: Shri D. Awasthi)

ORDER

JUSTICE KHEM KARAN, V.C.

It is prayed that the respondents be commanded to consider the regularization of applicant in Class IV, in accordance with Railway Board's letters dated 9.10.98 and 11.5.99 and further be asked to dispose of representation dated 29.8.2000.

2. Applicant's case in brief is that he worked as casual labour in different spells, upto 30.8.1987, for more than 1000 days under Divisional Railway manager, N.E. Railway Varanasi and his name was also shown at 149 in the seniority list dated 12.3.1981 (A-2) and so in view of para 179 (XIII) (b) of Railway Establishment Manual and Board's letter dated 11.5.99 (A-1) and

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9.10.98, he is entitled to be conferred temporary status and thereafter to be considered for regularization. It is alleged in para 4.3 that his screening also took place, for purposes of regularization as is evident from letter dated 29.11.95, but the result has not been declared so far, in spite of representation dated 29.8.20000 (A-4).

3. In their reply, the respondents have tried to say that since applicant's engagement as casual labourer, on 11.5.1981 was without prior approval of G.M. N.E.R as required in railway Board's letter dated 18.12.1980 (A-1 to reply), so has no claim for regularization or re-engagement. They say that seniority list (A-2 to O.A.) which is being relied on by the applicant, has been cancelled and fresh list has been issued on 18.7.1987, wherein the name of the applicant does not find place. According to them, this list contains names of only those casual workers who worked before 1.1.1981. It is denied that the applicant was even subjected to screening as claimed in O.A.. They also dispute, for want of necessary particulars as provided in Board's, letter dated 30.9.96 (A4 to reply) that the applicant worked for 1000 days.

4. I have heard Shri Bashist Tiwari, for the applicant and Shri D.Awasthi for the respondents. Relying on decision dated 23.3.1990, rendered by Patna Bench of this tribunal in OA No. 81 of 1990, Shri Tiwari has argued that absence of prior approval of G.M. as required in Railway board's letter dated 18.12.1980, for engagement of the applicant as Substitute Casual labourers on 11.5.1981, will not defeat his claim for regularization or for conferment of temporary status as per scheme. It is true that Patna Bench of this Tribunal took the view that absence of G.M.'s approval, for engagement as casual labourer, will not wipe out the claim of the applicant for engagement as casual labourer. But this alone will not advance the case of applicant so as to claim regularization etc in terms of Board's letter dated 9.10.98 and 11.5.99.

5. Letter dated 11.5.99 (A-1 to OA) says that with a view to filling up Group 'D' posts, screening of casual labourers, borne on Live Supplementary Live Casual Registers has to be done after verifying the authenticity thereof. The

applicant has nowhere pleaded that his name finds place in Live/Supplementary Live Casual Labour Register. What he alleges in OA is that his name finds place in seniority list dated 12.3.1981 (A-2), which according to the respondents was cancelled long back in 1987 and a fresh list was drawn, wherein applicant's name did not figure. Copy of this fresh list has been annexed to the reply. The applicant did not dare to controvert this fact. Thus the claim of the applicant for regularization in terms of Board's letter dated 9.10.98 and 11.5.1999, appear to be ill founded. These two letters cover the cases of those casual workers, whose names find place in Live/Supplementary Live Casual Labour Registers, prepared in terms of Board's letters dated 21.2.1984, 22.11.84, 25.4.86, 12.6.87 and 8.12.88, as referred to in letter dated 11.5.1999.

6. More over, after Constitution bench decision of the Apex court in 'State of Karnataka Vs. Uma Devi and others, SCC (2006) 4 page-1 Such ex-casual labourers have no case for regularization, beyond the scheme of regularization.

7. The O.A. being devoid of merits is dismissed, but with no order as to costs.

1/ dw. -
19.4.07
VICE CHAIRMAN

Dated: April , 2007

Uv/