

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLA HABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 953 OF 2001
ALONG WITH

ORIGINAL APPLICATION NO. 851 OF 2001

ALLAHABAD, THIS THE 30th DAY OF April 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER(J)

Anand Prasad son of Shri Chhattu
Bhagat, (Casual Labour), Resident of
village and Post-Parashuram,
Baradeah, District-Deoria.

.....Applicant in O.A.953/01

(By Advocate : Shri R.K. Pandey)

A L O N G - W I T H

1. Ram Briksh Yadav, s/o Shri Dharmi Yadav,
resident of village-Patjiwa, Post Office-
Kasela, District-Mau.
2. Vindhya Chal s/o Shri Kashi Resident of
village-Hiranpur, Post Office-Chhapra,
District-Mau.
3. Sureman s/o Shri Nandu Singh Yadav, resident
of village-G-Ardariya, Post Office-Bara Gaon,
District-Gazipur.
4. Chhannar s/o Shri Sukhnandan resident of village
Sultanpur, Post Office-Jalalabad,
District-Gazipur.
5. Keshaw Pandey s/o Shri Panna Pandey,
Resident of village-Kathesar, Post Office
Chandrawati, District-Varanasi.
6. Kanhaiya Yadav, s/o Shri Ram Dhari Yadav,
r/o village - Molana Pur, Talgaon, Post Office
Jakhariya, District-Ghazipur.

.....Applicants in O.A.851/2001

(By Advocate : Shri R.K. Pandey)

V E R S U S

1. Union of India through the Secretary,
Ministry of Railways, Rail Bhawan, New Delhi.
2. General Manager, N.E. Railway, Gorakhpur.
3. Divisional Railway Manager, N.E. Railway,
Varanasi.

.....Respondents

(By Advocate : Shri K.P. Singh)

Handwritten signature

O R D E R

Since both these O.As have raised a common issue and have sought the same reliefs, therefore, they are being disposed off by a common judgment by taking the facts of O.A. 953/2001 as lead case.

2. In O.A. 953/2001 there is one applicant while in O.A. 851 of 2001 there are 6 applicants. All these applicants have challenged the order dated 04.04.2001 which was passed by the respondents pursuant to the directions given by this Tribunal vide its order dated 03.07.2000 in O.A. 36 of 1997. In the said order respondents have stated that the last person in the panel dated 19.11.1996 was Ashiq Ali Siddiqui whose working days ^{are} 910. Therefore, it is essential to include ^{also} the name of those substitute casual labours whose working days are more than Ashiq Ali Siddiqui. Accordingly 3 more names were approved for empanelment wherein applicants name did not figure. Respondents have further explained that due to large number of employees of division and N.E.R. having been declared surplus, those employees had to be given preference ^{are still} for absorption on priority basis and since those surplus staff ^{are still} awaiting their absorption, the applicants in O.A. cannot be considered for empanelment.

3. Brief facts as stated by the applicant in O.A. 953/01 are that he had worked as casual labour in electricity department N.E.R. from 27.10.1978 to 09.04.1989 including the construction department and his total number of working days is 1310. Thereafter, respondent No.3 had issued a notification dated 07.09.1990 calling upon those persons who were similarly situated as Ram Brikhh to appear in the screening test (Pg.24). on 15.12.1999 33 persons were shown as eligible candidates for screening and vide letter dated 29.12.1995 (pg.26) all 33



persons were directed to appear in test on 10.01.1996 wherein applicant is shown at serial No.12. It was stated in the letter dated 10.01.1996 that all those persons who have completed 500 days shall be screened. Thereafter all the applicants appeared in the screening test but in the final result declared on 19.11.1996(Pg.30) only 25 candidates were declared as selected which did not include the names of the applicants. Even though, according to applicants vacancies were as many as 60. They have, thus, submitted that applicants have been ignored without any justification. Being aggrieved, they filed representation on 16.12.1996 but since no reply was given, they filed O.A. No.36/97, which was disposed off by giving direction to dispose off the representations as a result of which, the impugned order dated 04.04.2001 was passed by the respondents.

4. Applicant's grievance now is that the posts which were meant for being filled by way of screening could not have been filled from the surplus staff as that would be contrary to the law. Moreover, they have, ~~also~~, submitted that Shri Ashiq Ali Siddiqui was engaged on 19.04.1993 and had worked for only 622 days while applicants had been working much prior to him. Therefore, there is absolutely no justification in ignoring their names while including the name of Shri Ashiq Ali Siddiqui. They have, thus, filed the present O.A. seeking the following reliefs:-

- (1) Issue order or direction to declare the impugned order dated 04.04.2001 passed by respondent No.3 as null and void so far as it adversely effect the claim of the petitioner.
- (2) Issue order or direction commanding the respondent No.2 and 3 to empanel the applicant as successfully screened candidates and absorb him on a regular class IV post.
- (3) Issue, order or direction the commanding the respondents to accord seniority and other priviligious w.e.f. the date when his juniors were regularly appointed on Class-IV post.
- (4) Issue any order or direction which this Hon'ble court may deem fit and proper.



5. Respondents have contested the O.A. and have submitted that applicant had worked in the electrical department only for 90 days from 10.01.1989 to 09.04.1989 and screening was to be done only for substitute working in the electrical department. Since applicant had given a representation, he was also considered on ad-hoc basis subject to fulfilment of conditions. Moreover, in the first letter itself, it was made clear that similarly situated persons as that of Shri Ram Brikhh alone should be considered. Since applicant did not fulfil these conditions as per stipulated in notification dated 06.10.1995. Therefore, neither he can claim that he was similarly situated as that of Ram Brikhh nor can claim em-panelment as a matter of right. They have further explained that in the letter dated 29.12.1995, names were not arranged as per seniority and seniority was to be fixed only after screening. Since applicant was not even suitable by the Screening committee, therefore, he has no right to claim the reliefs. They have categorically stated that all those persons who were empanelled have more than working days than the applicant. Therefore, applicant cannot have any grievance. They have further explained that in view of large number of employees having been declared as surplus, they had to be given absorption on priority basis. Therefore, there is nothing wrong if those persons have been absorbed. As far as Shri Ashiq Ali Siddiqui is concerned, they have clarified that he had completed 622 days up to 31.12.1994 but since screening was done in the year 1996, subsequent period was also added. Therefore, it is wrong to suggest that Ashiq Ali Siddiqui had only completed 622 days. They have, thus, submitted that due to administrative reasons, curtailment of vacancy and for absorption of surplus staff, the remaining persons could not be empanelled. Therefore, there is no illegality in the orders passed by the respondents and the O.A. may be dismissed.



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

7. Perusal of the letter dated 07.09.1990 shows that there was a proposal to hold the screening test for regularisation of Shri Ram Brikchh and other similarly situated persons. It was made clear that appointment shall be given thereafter as per seniority. The most important letter is that of 29.12.1995 wherein in the heading itself shows that screening test^{was} to be held for casual labours of electricity department of Varanasi Division. Thereafter a list of those candidates was given who had applied for the screening test. In this list applicants' name figured at serial No.12. It is further important to note that there was a specific note at the bottom of this list, which stated that these casual labours names are not given as per their seniority and it was further clarified that screening test would be held only for those casual labours who had completed 500 days as on 15.10.1995. It was further clarified that seniority would be fixed only after the screening test and verification of their number of days. It is, thus, clear that neither this list was in accordance with seniority nor it was meant for all the people who had been working as casual labours but was meant for also those casual labours who had worked in the electricity department of Varanasi Division. At this juncture, it would be relevant to refer to the service particulars as shown by applicants himself. His casual labours card shows that he had worked from 02.07.1980 to 30.06.1981 in construction and from 01.07.1981 to 03.09.1981, 05.09.1981 to 7.09.1981, 09.09.1981 to 31.12.1981 and 01.01.1982 to 15.04.1982 under P-way I construction N.E.R. From 01.06.1985 to 30.06.1985 again he had worked for Petrolling purposes in N.E.R. As far as his working in the electricity department is concerned, his



casual labour card shows that he had worked only from 10.01.89 to 09.04.1989 i.e. for 90 days. Now if this period is to be seen for the purposes of screening in the electricity department naturally applicant cannot say that he had worked for more than number of days than Shri Ashiq Ali Siddiqui in the electricity department because he may have worked for number of days in N.E.R. Varanasi but since this screening test was meant only for casual labours for electricity department of Varanasi division naturally the period for which he had worked in electricity department, alone was to be taken into consideration for the purposes of screening. Since we have come to the conclusion that applicant had worked for only 90 days in the electricity department and the minimum requirement as per the letters, which have been referred to above was 500 days in the electricity department, naturally applicant cannot seek the relief to be empanelled, without fulfilling the requirement as laid down in the letter meant for screening itself.

8. Even otherwise, respondents have explained that large number of employees had been declared surplus so naturally it was incumbent on the part of department to absorb those surplus staff as well. We cannot find any illegality if respondents had absorbed the surplus staff by giving them preference in the circumstances.

9. As we have observed above, since applicant had not put in 500 days in the electricity department, he could not have any valid grievance against Shri Ashiq Ali Siddiqui nor can claim that he should be empanelled, nor can we give such a direction to appoint any person, Court can only give direction to consider the case of applicants. In this case since applicants have already been considered by the Screening



Committee but they could not be empanelled as they did not fulfill the condition of having 500 days in electricity department. Moreover, their grievances have been looked into by the respondents, therefore they have not been able to make out a case for interference by the court.

10. In view of the above facts as explained above, both these OAs are dismissed with no order as to costs.



Member (J)

shukla/-