

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.**

ORIGINAL APPLICATION NO. 986 OF 2001

ALLAHABAD THIS THE 4TH DAY OF APRIL, 2007.

Hon'ble Mr. Justice Khem Karan, V.C.

Buddhesh Mani Mishra, son of Shri Raghav Mishra, r/o Village Balapur, Post Balapur, District Gorakhpur.
.....Applicant

(By Advocates: Sri G.D. Mukherjee/Sri S. Mukherjee)

Versus.

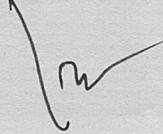
1. Union of India through the General Manager, North Eastern Railway, Gorakhpur.
2. The Deputy Chief Engineer, North Eastern Railway, Gorakhpur.
3. Chief Personnel Officer, North Eastern Railway, Gorakhpur.

.....Respondents

(By Advocate: Sri A.V. Srivastava)

O R D E R

Admittedly, the applicant and few others filed one O.A. No.73/1992, (Baij Nath and others Vs. Union of India and others) before this Tribunal and the same was disposed of vide order dated 15.10.1992, directing the respondents to consider, mentioning of the names of the applicants in Live Casual Labour Register and in compliance of ^{These 4} ~~the~~ directions, the name of the applicant was entered in that register in 1994 and information was also given to the applicant vide letter dated 7.6.1994. The grievance of the applicant is that the respondents have inducted so many fresh casual labourers, after 1994 as mentioned in the O.A. but have not considered engagement or regularization of the applicant in Group 'D'. He prays that the respondents be commanded to engage him as a Casual Labour irrespective of his having become overage.



2. In their reply, the respondents have tried to say that the allegation that some fresh casual labour were inducted in 1997-1998 in Bareilly Division of North Eastern Railway, should be considered in the light of circumstances narrated in the reply. They say that it was in emergency that some casual labourers were engaged to do some work. In Supplementary reply, it has been said that on verification of service certificate, allegedly issued to the applicant saying that he worked as Casual Labour from 110.3.1974 to 15.12.1974, it was found that the same was not issued by the Authority concerned. They say that no junior to the applicant, as per Live Casual Labour Register, has been engaged.

3. Sri S. Mukherjee appears to be right in arguing that once the name of the applicant was entered in the Live Casual Labour Register, in compliance of the direction of this Tribunal issued in O.A of 1992, it is now open to the respondents to say that he did not work as a casual labour ~~in between~~^{during} the period or for the number of days, mentioned in that Register or mentioned in service slip. He says that it can be presumed that at the time of entering the name of the applicant in that Register, all such exercise might have been undertaken so as to ~~sustain~~^{ascertain} whether his claim that he worked as Casual Labour for such a number of days was genuine or not and whether service slip was genuine or not. Sri S. Mukherjee says that the respondents cannot turn around and say that service slip was not issued by the Authority concerned. He has also argued that if the endorsement made in Hindi on the photocopy of the service slip, (which is a part of SCA-1) is closely examined, ~~it~~^{it} would reveal that the Authority wanted to see the original. So Sri S. Mukherjee says that this endorsement cannot be construed as if the Authority disowned it.

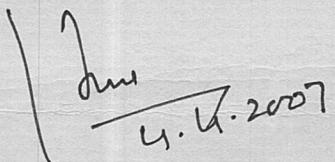
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4. I am of the view that the respondents cannot oust the applicant from claiming the re-engagement or regularization on the ground that service slip issued to him is not genuine or he did not work for 260 days as a casual labour.

5. Sri S. Mukherjee does not dispute that as per standing instructions, persons shown in the particular Casual Live Register have to be considered in order of seniority as and when the ~~requirement of~~ vacancies arise. ~~He says that in~~ the instant case, there is nothing to show that any person junior to the applicant in the said Register, has been inducted or re-engaged. ~~He says that~~ the engagement of certain Casual labour in 1997-1998, was in emergency and for ^a short span. The Tribunal is of the view that this O.A. can be disposed of with a suitable direction to the respondents to ensure that the case of the applicant for engagement/regularization in Group 'D' is considered ~~in~~ ^{in the relevant} his turn as per serial number ~~for the~~ relevant Register within a reasonable time, ^{and} if required, after relaxing the upper age limit. ~~ordered accordingly.~~

6. The O.A. is disposed of in terms of above directions.

No costs.


Vice-Chairman

Manish/-