

Open Court.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

original Application No. 12 of 2001.

this the 8th day of March 2002.

HON'BLE MR. RAFIQ UDDIN, MEMBER (J)

1. Smt. Noorjahan, aged about 32 years, w/o Subrati, R/o Mohalla Munshipura, Mau Nath Bhanjan, Mau.
2. Smt. Sadrunnisha, aged about 34 years, w/o Bakridan, R/o Mohalla Nai Basti, Munshipura, Mau Nath Bhanjan, Mau.

Applicants.

By Advocate : Sri K.K. Misra.

Versus.

1. Union of India through General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager, N.E.R., Lahartara, Varanasi.
3. Senior Divisional Personnel Officer, N.E.R., Lahartara, Varanasi.
4. Chief Medical Supdt. N.E.R., Varanasi.
5. Maimoon, w/o Rahmat Ali, R/o C/o Chief Health Inspector, N.E.R., Varanasi.

Respondents.

By Advocate : Sri A.K. Gupta for Sri Anil Kumar.

O R D E R (ORAL)

The applicants in the second round of litigation have filed this O.A. to re-engage ^{to demand} to work as Casual Labourers/Safaiwali in the medical department and also seek directions to the respondents not to resort any recruitment for Group 'D' post till the applicants are regularised/absorbed.

2. It is an admitted position in the present case that the names of the applicants were figured at sl. no. 29 & 27 respectively in the Live Casual Labour Register

of Safaiwala maintained by the Chief Medical Supdt., whereas the name of the respondent no.5 was shown at sl. no. 15. The services of the respondent no.5 has been regularised.

3. Heard the learned counsel for the parties and have perused the pleadings on record.

4. The learned counsel for the applicants has contended before me that the respondents have illegally regularised the services of the respondent no.5 because he had worked for 23 days only in the year 1989, whereas the applicants had worked 60 days in the year 1989. However, it is contended by the learned counsel for the respondents that the working days of the respondent no.5 was more than the applicants as is evident from the seniority list which has been annexed as Annexure-4 to the O.A.. It appears that the working days of the respondent no.5 in the year 1990-91 has been included. The learned counsel for the applicants has urged that the action of the respondents to engage the respondent no.5 in preference to the applicants in the year 1990-91 was discriminatory. It is, however, contended by the learned counsel for the respondents that on account of some ~~emergent~~ situation for necessity, the respondent no.5 was engaged as casual Safaiwala, who was immediately available, irrespective of the seniority in the year 1990. Considering the facts that the respondent no.5 ^{was R} ₁ re-engaged as Casual Safaiwala in the year 1990 and the applicants did not file any petition before the Court, I do not find any justification to upset the seniority of the applicants vis-a-vis the respondent no.5 at this belated stage.

5. It is, however, admitted to the respondents vide ^{of the CA R} para 22 that on availability of future vacancy of Safaiwala, the applicants will be given preferential ^R benefit.

6. Considering the facts and circumstances of the case, the O.A. stands disposed of with the direction to the

respondents to re-engage the applicants as Safaiwala as soon as any vacancy of Safaiwala is available with them. It is also provided that incase any vacancy of Safaiwala is available, the respondents would inform the applicants in writing. The services of the applicants be regularised as per rules. No costs.

Ravinder
MEMBER (J)

GIRISH/-