

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the 09th day of May, 2003.

Original Application No. 1143 of 2001.

Hon'ble Mrs. Meera Chhibber, Member- J.

Mohd. Ishaq S/o Mohammad Ibrahim, Casual Labour  
Mahoba Railway Station, Central Railway Division,  
Jhansi, R/o Railway Station, Mahoba, Bazarria Mahoba, U.P.

.....Applicant

Counsel for the applicant :- Sri Munnoo Lal

V E R S U S

1. Union of India, M/o Railways through its General Manager, Central Railway, Mumbai.
2. The Divisional Manager, Railways, Central Railway, Jhansi Division, Jhansi.

.....Respondents

Counsel for the respondents :- Sri A.V. Srivastava

O R D E R (oral)

By this O.A applicant has sought for quashing of the order dated 11.05.2001 and a direction to the respondents to treat the applicant <sup>as</sup> eligible for conferring ~~of~~ temporary status from the date his juniors were confirmed and pay him salary/wages with arrears from 20.12.1989 the date of illegal retrenchment of the applicant till the date of his joining the service.

2. <sup>was</sup> The grievance of the applicant is that when he ~~had~~ retrenched on 20.12.1989 he filed O.A No. 1235/1993 which was decided by the Tribunal vide its order dated 02.08.2000 wherein the Tribunal had categorically recorded that applicant was terminated from work by the Divisional <sup>safe</sup> Officer, Jhansi

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vide his letter dated 19.12.1989 and it does not appear that he had left the work on his own. The respondents were taking inconsistent stand. Moreover, his date of appointment and correct particulars were already given in letter dated 21.08.1992 wherein it was not mentioned that casual labour card possessed by the applicant was forged and, in any case, before taking the decision that his casual labour service card was fake he ought to have been given an opportunity which was not done. Therefore, court had observed that it does not appear that applicant had voluntarily left the work. However, the matter was remitted back to the authorities with direction to respondent No. 2 to look into the claim of the applicant himself and pass a reasoned and detailed order within three months from the date of receipt of a copy of this order.

3. It is submitted by the applicant's counsel that in spite of specific direction respondents did not give him any opportunity of hearing and once again rejected his claim vide order dated 11.05.2001 (Annexure A-1) by stating that he had not worked since 20.12.1989, therefore he could not be considered for regularisation on the basis of screening done in 1991-1992 as per the extant rules.

4. It is surprising that on this crucial point which was already taken by the applicant in his earlier O.A also when Tribunal had already observed that material fact was not entertained by the respondents while deciding the applicant's representation nor they gave any opportunity of hearing to the applicant how could respondents once again take the same stand that casual labour service card possessed by the applicant was forged. The applicant had filed his first O.A in the year 1993 and filed this second O.A in the year 2001. Now we are in the year 2003 i.e. 10 years have already gone by now but till date respondents



have not been able to pass any valid and sustainable order. Applicant's counsel has also invited my attention to annexure A- 4 wherein office of Station Superintendent, Mahoba had written to the D.R.M (P), Jhansi as back as on 18.01.1992 that after medical examination applicant may be engaged under temporary MBA as substitute P. Man replacing junior substitute to him in the interest of justice. To this respondents' counsel contended that letter dated 29.10.1992 (Annexure CA-1) was written by the P.W.I, Mahoba subsequently wherein it had been clarified that service card number 132980 was not issued from the said office, therefore, it is fake. On this point it is relevant to mention that the judgment was given by the Tribunal on 02.08.2000 wherein Tribunal had observed that before declaring that the service card was fake, applicant ought to have been given opportunity of hearing after the above said judgment. Therefore, they cannot rely on the said letter because once Tribunal had made certain observation, those observations were also binding on the respondents and they had to look into the matter keeping in view all the aspects which were argued before the Tribunal. Since the respondents have dragged the applicant unnecessarily to the court second time, I feel it would be in the interest of justice, if cost of Rs. 2000/- is imposed on the respondents for not considering the direction on this Tribunal in its correct perspective.

5. Since the respondents are stating categorically that no such card was issued and the same is fake, matter is remitted back to respondent No. 2 with specific direction to verify the number of days put in by the applicant and also to see whether any person junior to him has been re-engaged. If they feel his service card is fake, they must give show cause notice to the applicant before passing the final order. If it is found that any person junior



to him has been re-engaged and that he was entitled for grant of temporary status in accordance with law, he should be given the relief within a period of three months from the date of filing of application alongwith a copy of this order. Before deciding the case, respondents are specifically directed to give an opportunity to the applicant as well to place his case before the authorities in writing so that no point is left over by the authorities now. It would be better, if a direction is given to the applicant also to give his grievance in writing to the respondent No. 2 within two weeks from the date of communication of this order. It goes without saying that the orders to be passed by the respondent No. 2 should be a reasoned and detailed order and should be intimated to the applicant.

6. With above direction this O.A is disposed of with cost of Rs. 2000/- in favour of the applicant and against the respondents.



Member- J.

/Anand/