

OPEN COURT

**CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD**

(THIS THE 18TH DAY OF AUGUST, 2011)

HON'BLE MR. R. SATAPATHY, MEMBER (A)

HON'BLE MR. A. K. BHARDWAJ, MEMBER (J)

Original Application No 1497 of 2004

(U/S 19, Administrative Tribunal Act, 1985)

1. Ramesh Singh S/o Shri Prayag Singh, R/o Railway Harthala Colony, Moradabad.
2. Rajesh Mohan S/o Shri Harish Chanda, R/o - Railway Harthal Colony, Patel Nagar, Bhojpur Mithoni, Moradabad.
3. Harish Kumar urf Harish Chand S/o Brindavan R/o Behind Nehru Nursury School, Bhagwati Bhawan, 217 Azad Nagar, Moradabad.

..... Applicants

Present for Applicant : Shri L.M. Singh, Advocate

Vs.

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Moradabad.
3. Sr. Divisional Personnel Officer, Northern Railway Moradabad (Shri P.P.Pandey).
4. Assistant Personnel Officer (Mechanical), Northern Railway, Moradabad.

..... Respondents

ORDER

(Delivered by Hon. Mr. A. K. Bhardwaj, Member-A)

Heard arguments advanced by Mr. L. M. Singh, learned counsel for the applicant. None for the respondents.

2. Respondents issued show cause notice dated 07.07.1997 to applicants intimating them that the checking of Live Casual Labourer Register could reveal that they had been re-engaged erroneously as they had lesser working days at their credit and many others who had rendered casual service for more days had been left out. Intimating so, respondents took stand, that the applicants are not entitled to be re-engaged as Casual Labourers ahead of those who had worked more number of days as Casual Labourer. Taking such stand respondents proposed to rectify the mistake of irregular and erroneous re-engagement of applicants and issued them show cause notice calling upon them to explain as to why their services might not to be discharged for the reasons intimated to them. Applicants filed their response dated 17.7.1997 to show cause notice dated 17.7.1997, said response placed on record (Annexure A- 9), reads as under :-

"1. That in accordance with the orders of the Hon'ble Supreme Court the case of the Applicant was considered and in accordance with the seniority he was re-engaged vide your letter No. E/ERS/III/96 dated 21.6.1996.

2. That I also respectfully submit that I was re-engaged in pursuance of the order of the Hon'ble Supreme Court after verifying my credentials through the Commissioner appointed by the Court for the said purpose.

3. That subsequently also when a petition was filed by the Rail Mazdoor Union and 36 others where I wads

impleased as Respondent, the Principal Bench of the Central Administrative Tribunal had directed the Railway Administration to verify the position and engage those 37 Petitioners "against available vacancies in preference to all other fresh casual labourers'.

4. That in the abovementioned petition filed by the Rail Maazdoor Union the Railway Administration had not filed any reply.

5. That I have been engaged because I was found to be the senior-most after verification of the record and when I have worked for about one year it cannot be said that I was re-engaged erroneously and I have less working days to my credit than others.

6. That even otherwise, no details have been given in the Show Cause Notice as to who are those who have more working days than myself. It has also not been indicated as to why my services are sought to be terminated in violation of the judgement earlier given by the Hon'ble Supreme Court and subsequently by the Principal Bench of the C.A.T. in O.A. No. 2345/96 in which the directions were given that the Respondents will re-engage the services of the Petitioners in that Petition against available vacancies in preference to fresh casual labourers. According to the aforesaid judgement also my services cannot be terminated in order to accommodate those who are Petitioners in the said O.A.

7. I am in utter dark as to what explanation can I give to the Show Cause Notice unless and until the details of working days are given in respect of those who are alleged to have more working days than me. In order to make the Show Cause Notice effective, you should have given the details of the working days so that I could have given my effective reply.

8. That even otherwise, the Show Cause Notice issued by you is illegal and even violative of the Railway Board's instructions on the subject.

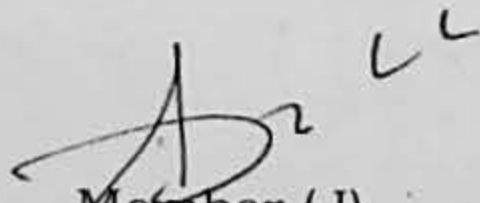
9. *You are, therefore, requested to kindly withdraw the said notice forthwith and let the poor representationist who has been re-engaged in accordance with the Hon'ble Supreme Court's orders work peacefully"*

3. In para 6 of their response respondents have given no details of those Casual Labourers who had more working days than them, so mentioned in Show Cause Notice issued to them. Considering the said reply of applicants, respondents issued order dated 01.08.1997 (Annexure A-2) in the said notice, in terms of which the services of applicants were discharged. Respondents have not mentioned particulars of those who had rendered casual service for longer period than applicants. Assailing, aforementioned notice of their discharge from service, applicants approached this Tribunal by filing O.A. No. 865/1997. In the said Original Application respondents filed supplementary affidavit, taking a stand that out of 12 applicants 9 had been called for re-engaged and were working substitute Safai Wala/S.W. to remaining applicants i.e. the applicants in the present O.A. Tribunal granted liberty to make representation and directed the competent authority to decide the same within a specified time i.e. three months. In compliance of afore mentioned order dated 24.2.2004 passed by this Tribunal, respondents passed order dated 09.08.2004. Assailing said order placed on record as Annexure, applicants have filed present OA. It is contended by Mr. L.M. Singh, learned counsel appearing for the applicants that neither in the show cause notice nor in the notice dated 01.08.1997 nor in order dated 09.08.2004 and nor in their counter reply, respondents have


indicated any particulars of those who were having longer casual service at the time of re-engagement of applicants.

4. We have perused the said documents. We agree with the submission of Mr. L.M. Singh, learned counsel for the applicant that while dis-engaged the service of applicant on the ground that certain casual labourers who had longer length were left out the respondents have failed to communicate the particular of such seniors.

5. Accordingly, we quash the impugned order dated 09.08.2004 and direct the respondents to pass a reasoned and speaking order communicating the details of such seniors who were left out while re-engaging the applicant. While doing so respondents shall mention their names, the length of casual labourer services rendered by them and also the present position of applicant vis-à-vis those who have been re-engaged. Respondents shall also verify, if any, junior of applicant has been re-engaged. If they find any such casual labourer, who has rendered casual services for lesser number of days, than applicants are re-engaged, they will examine the claim of applicant for re-engagement. Such exercise shall be carried within a period of three months.


Member (J)

Shashi/-


Member (A)