

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the 17th day of December, 2008.

HON'BLE MR. A. K. GAUR, MEMBER-J
HON'BLE MRS. MANJULIKA GAUTAM, MEMBER-A

ORIGINAL APPLICATION NO. 650 OF 2004

Suraj Pal Singh, aged about 40 years, S/o Shri Bajarang Singh, resident of Anjni Nagar, Rajghat, Jhansi.

.....Applicant.

VERSUS

1. Union of India through the General Manager, North Central Railway, Allahabad.
2. Divisional Railway Manager, North Central Railway, Jhansi.

.....Respondents.

Present for the Applicant: Sri R.K. Nigam

Present for the Respondents : Sri D. Awasthi

ORDER

Delivered : by Hon'ble Mr. A.K. Gaur, Member-J :

By this O.A. filed under Section 19 of A.T. Act, 1985, the applicant is seeking direction with regard to screening and absorption against one of the existing vacancies in Class IV, Group 'D' cadre within a specified period of time. Before coming to this Tribunal, the applicant had filed OA No.177/98, which was disposed of by judgment and order dated 17.9.2003 with a direction to respondent No.3 to consider and decide the pending representation of the applicant by a reasoned and speaking order within a period of three months. It was also specified in the order that it is open for the applicant to file a fresh representation alongwith copy of the order before respondent No.3. The applicant has worked as angman as well as Hot weather staff under the respondent No.2 in

different units. The grievance of the applicant is that the junior counterparts of the applicant have been given appointment while the claim of the applicant for absorption has been ignored on fake ground that he has not submitted Bio-date as well as other required documents. The applicant filed a copy of the representation dated 17.10.2007 and submitted that all the documents with regard to his physical working as casual labour/ MRCL were sent to the respondents. It is also alleged by the applicant that due to heavy rush of work, the department could not trace the representation and connected papers given by the applicant. However, an application dated 2.1.2004 was again supplied by the applicant alongwith Bio-data to the respondents (Annexure-A-5). According to the applicant, since he has again submitted Bio-data as well as supported documents, a direction be issued to the respondents to immediately screen and absorb him against the existing vacancies as has been done in respect of other junior counterparts.

2. In the reply, filed by the respondents, it is submitted that the applicant has approached this Tribunal by concealing relevant facts. The brief history of the case is that in the year 1996-97, the Railway Board introduced a policy for regularization of huge numbers of casual labours, who were on the roll at that relevant time (roll means still working and drawing wages and not those employees who had worked previously as casual labour). On completion of this process, some casual labours who were not on roll at that relevant time, but were in queue for regularization, but were not regularized earlier, as such the Railway Board further issued a policy of regularization vide Circular dated 28.2.2001, under which instructions and eligibility criteria were laid down by the Railway Board for those casual labours who were not on

roll, but their names were in the Casual Live Register/Supplementary Casual Live Register. The photocopy of the Circular dated 28.2.2001 issued by the Railway Board is being filed and marked as Annexure No.CR-1 in the Counter Reply.

3. Accordingly, in pursuance of the circular dated 28.2.2001 of the Railway Board, the Competent Authority in order to assess the number of eligible casual labours still figuring in Live Casual Labour Register/Supplementary Live Casual Labour Register, issued a letter dated 30.8.2001 alongwith a proforma for calling Bio-data of ex-casual labours latest by 30.9.2001 through Depot Incharge of concerning casual labours and it was also clearly mentioned that no application/Bio-data will be entertained after cut off date i.e. 30.9.2001. As per circular dated 20.9.2001 certain eligibility criteria for age was laid down by the Railways for the purpose of screening of the casual labour. The criteria for age is as follows :-

1.	For General Candidates	40 years
2.	For OBC Candidates	43 years
3.	For SC/ ST Candidates	45 years

It was also provided that upper limit of age will be calculated as on cut off date i.e. issuance of notification dated 30.8.2001. There is evidence on record which indicates that the applicant applied under aforesaid Scheme as it is clear from the Application Form filled by the applicant (Annexure-CR-4). In the Form, the date of birth of the applicant is mentioned as 14.2.1959 and calculating from the date of birth of the applicant, as per criteria laid down for General Candidates, the applicant

is overage, hence his application for regularization was rightly rejected by the Competent Authority. On the cut off date i.e. on 30.8.2001, he was found to be more than 40 years, which is overage for General Candidates and as per the Railway Board Circular only those casual labours were entitled for regularization who on the cut off date were below the age prescribed. The applicant was also given personal hearing by the D.R.M. in pursuance of judgment and order dated 17.9.2003 rendered in Lakhpur Ram & others Vs. U.O.I. & ors case wherein it is clearly mentioned that all the matters pertaining to the screening/regularization will be decided as per new policy on the matter. After this decision there can be no scope for any doubt, that the representation of the applicant was decided and found that the applicant is not even eligible for consideration for regularization as on the cut off date 30.8.2001, he was over age by over 2 $\frac{1}{2}$ years according to date of birth, declared in the Application submitted by him.

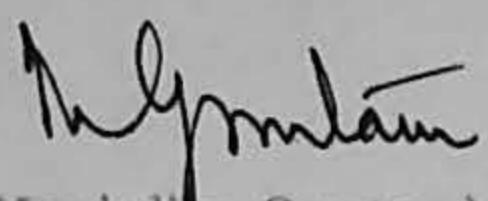
4. The applicant has filed rejoinder reply but nothing material has been added therein.

5. I have heard Shri R.K. Nigam, counsel for the applicant. It is seen from Annexure-A-4 to the OA that the applicant has indicated his date of birth in the application as 14.2.1959. As per Railway Board letter dated 20.9.2001, it is clearly specified that ex-casual labour who had put in minimum 120 days and were initially engaged as casual labour within the prescribed age limit of 28 years for General Candidates and 33 years for SC/ST Candidates, would be given age relaxation upto the upper age limit of 40 years in the case of General Candidates, 43 years in the case of OBCs and 45 years in the case of SC/ST Candidates. It is also seen

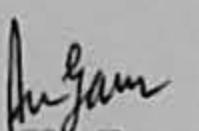
that relaxation was given to the casual labours provided they have put in minimum three years service in continuous spell or in broken spell as per instructions contained in Railway Board letter dated 11.1.1999. In terms of Railway Board Circular dated 28.2.2001, the ex-casual labour born on Live Casual Labour Register, will first be considered for absorption on the Railways strictly as per their turn according to seniority based on the total number of days put in by them as casual labour. Thereafter, the ex-casual born on Supplementary Live Casual Labour Register will be considered in accordance with the number of days put in by them prior to 1.1.1981. It is seen from the record that candidature of the applicant was not liable to be considered under the terms and conditions laid down by the Railway Board in its Circular dated 28.2.2001 and 20.9.2001. The applicant was admittedly 42 years 06 months and 16 days as on 30.8.2001. It is clearly provided that all General Candidates will be considered upto the age of 40 years, and since the age limit was main criteria for considering the applicant for screening/regularization in Group 'D' as per the Railway Board Circular dated 28.2.2001, the case of the applicant could not be considered. There is no quarrel with the proposition of law that Railway Board Circular has got statutory force. The Circular clearly provides that the General Candidate must be within the age limit of 40 years as on 30.8.2001. A perusal of the direction rendered in OA No.177/98 in the case of Lakhpur Ram & others Vs. UOI & ors. decided by this Tribunal vide judgment and order dated 17.9.2003 also clearly mentioned that all the matters pertaining to the screening/regularization will be decided as per new policy of the matter. After this decision, there is no scope for any doubt that the representation of the applicant has not been decided according to law.

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6. In view of my aforesaid observation, I find that there is no merit in this case. Accordingly, the O.A. is dismissed. No order as to costs.



(Manjulika Gautam)
Member (A)



(A.K. Gaur)
Member (J)

RKM/