

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

ORIGINAL APPLICATION NO.809 OF 2004

ALLAHABAD THIS THE 13th DAY OF November OF 2006

HON'BLE MR. P.K. CHATTERJI, MEMBER-A

Govind Ram aged about 40 years (ex-Casual Labour of Jhansi Division of North Central Railway) son of Sri Hardeo Sharma Resident of 312, Pratap Pura, Nagar Jhansi.

.....Applicant

(By Advocate: Sri R.G. Soni)

Versus.

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

.....Respondents

(By Advocate: Sri D. Awasthi)

ORDER

The applicant in this OA had worked as casual labour at daily wage under the Assistant Controller of Store (Diesel Jhansi) and Chief Permanent Way Inspector (Construction) Shivpuri and Guna as Gangman under respondent NO. 2 but his services were discontinued due to reduction in the establishment. He worked as casual labour from 4.6.1985 to 1.7.85 under Asstt. Controller of Stores (Diesel) Jhansi and from 20.4.1987 to 21.6.87 and again from 24.7.87 to 18.8.87 under the Chief PWI Shivpuri and from 9.12.88 to 16.6.89 under Chief PWI Guna. The applicant has annexed with his OA the true copy of his working certificate issued by the Asstt Controller of Stores (Diesel) Jhansi.

2 The respondent No. 2 vide notification No. JHS/P/161/CL/Group 'S' dated 30.8.2001 invited applications from Ex casual labors for their screening and appointment on Group 'D' post against the existing vacancies. In response to the notification the applicant submitted an application to respondent No. 2 which was acknowledged by the officer of respondent No. 2 on 24.09.2001. Thereafter, the applicant was

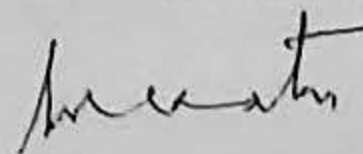
M. K. Soni

called for screening and he reported for the same on 09.05.2003. At the time of screening declaration for posting out of Jhansi was also taken from the applicant. But on the same day the Asstt. Personnel Officer asked the applicant to bring the certificate from Chief PWI (Construction) Guna for having worked under him.

3 The applicant further says that because the office of Chief PWI Guna was closed after completion of construction the record was transferred to Chief PWI Gwalior. So the applicant obtained the certificate from Chief PWI Gwalior and gave it to Asstt. Personnel Officer on 15.5.2003. He was again screened on 15.5.2003 after production of the certificate.

4 On 12.1.2004 the applicant submitted an application for issuing him a call letter for medical examination. But he was verbally told by the Staff of recruitment section of the DRM's office Jhansi that his name did not appear in the list received from the Chief Personnel Officer Mumbai after approval. On 24.1.2004 the applicant again made a representation to respondent No. 2 for issue of a call letter for medical examination. But the same was still not disposed of. In submitting the above mentioned fact the applicant has prayed for an order directing the respondents to issue call letter for medical examination and also the appointment letter in Group 'D' category.

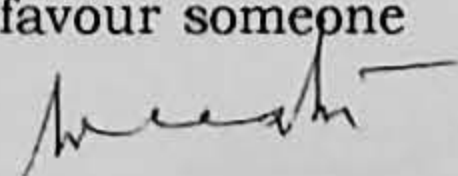
5 In the counter affidavit the respondents have submitted that in pursuance of the circular dated 28.2.2001 of the Railway Board, the DRM NCR, Jhansi, issued a letter on 30.8.2001 with a proforma calling for bio-date of excusal labours. The eligibility criteria was also indicated in the letter and it stipulated that the causal labours who worked for a minimum of 120 working days and were within 40 years of age for general category, 43 years for OBC and 45 years for OBC could apply. A committee of officers was nominated for screening the applications. The respondents, thereafter, further stated that the application of the applicant was found prima-facie correct, so he was called to attend the office for screening with the documents. But on checking the papers it was seen



that the working days as shown by the applicant in his application was not verified by the concerned Depot Incharge and for this reason they are of the view that his claim that he had completed 120 days of service was not acceptable. The respondents have further averred that the working days of the applicant under the Assistant Controller of Stores (Diesel) only was verified but the other working days i.e. under the Chief PWI (Construction) Shivpuri and Guna Railway station was not verified. The working days of the applicant at the depot which was verified was on 42 days which was much short of the requisite 120 days. For this reason he was not found entitled for regularisation. The respondents have categorically denied the claim of the applicant that he worked for 336 days

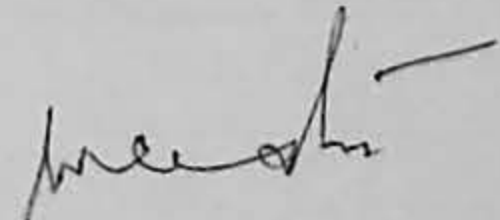
6. The respondents have also said that the cutoff date of receiving the application was 30.09.2001 from the applicant, but the applicant's application was received later. Even then it was considered which amply showed their good intention towards the applicant. The applicant however, submitted that he had submitted the application to the SES Jhansi on 24.9.2001. So it was not his fault that it was not dispatched in time. In my view this matter is not significant as the applicant's case was considered by the respondents though it was received late.

7. The applicant has drawn my attention to Annexure A-VI of the OA. This is a certificate dated 15.5.2003 issued by the Senior Section Engineer PW, Central Railway Gwalior. According to this certificate the applicant worked as causal labour under the unit from 19.12.1988 to 16.06.1989. The learned counsel for the respondents however, said that the working days was to be got verified by the Chief PWI (Constructin) Shivpuri and Guna Railway Station. As it was not verified by the appropriate authority the respondents could not acknowledges this service. The Tribunal asked a categorical question to the learned counsel if the applicant did not perform the work at the unit, how could such certificate be issued by a reasonably senior officer of the organization. Against this the learned counsel for the respondents ~~said that~~ such certificate quite often were issued either by mistake ~~or~~ to favour someone



and therefore, they had no value. The learned counsel for the respondents also could not reply specifically when he was asked whether the respondents could or could not verify the record produced by the applicant.

8. From the record of the case it appears that the respondents put the onus of obtaining the requisite certificate fully on the applicant without bothering to check the correctness of this certificate issued by one of their senior officers. The statement made by the learned counsel for the respondents that such type of certificates are issued in plenty without any authority and that this should not be given any cognizance was also not acceptable. For these reasons I find that there is some merit in the OA. The respondents should have tried to get the certificate (Annexure A-VI) verified by themselves before rejecting the claim of the applicant. Therefore, I hereby direct that respondent No. 2 will again consider the application on the basis of the certificates in support of the applicant having more than 120 days of service and if necessary, by verifying the correctness of the certificate granted by the Senior Section Engineer PW Gwalior (Ann A-VI). Thereafter, the respondents will take further steps depending on whether the claim of the applicant is substantiated or not and in pursuance of the circular of the Railway Board dated 28.02.2001. If the respondents are of the view that the certificate of the Senior Section Engineer PW Gwalior, is factually incorrect ~~they~~ must state the reasons for the same. After considering the matter on these lines a speaking and reasoned order should be issued by respondent No. 2 within a period of four months from the date of receipt of the copy of this order. No costs.



Member-A

Manish/-