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Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD.

Dated: This the 10th day of November, 2005.

Original Application No. 116 of 2005.

HON'BLE MR. D.R. TIWARI, Member (A)
HON'BLE MR. K.B.S. RAJAN, MEMBER (J)

Mohd. Khalid Latif, s/o Late Mohd. Sageer Siddiqui,
R/o House No. S-4/34, Ulfat Compound Orderli Bazar,
Varanasi.

.....Applicant

By Adv: Sri. V.K. Srivastava).

V E R S U S

1. Union of India through its General Manager, North Eastern Railway, Gorakhpur.
2. Divisional Rail Manager, North Eastern Railway, Varanasi.
3. Chief Personnel Officer (Administrative), North Eastern Railway, Gorakhpur.
4. Senior Divisional Personnel Officer, North Eastern Railway, Varanasi.

..... Respondents

By Adv: Sri K.P. Singh

O R D E R

BY K.B.S. RAJAN, MEMBER-J

Whether the applicant has served during the period from 1994 to 2004 and thereafter is the question involved in this case. The applicant claims that on the orders of the G.M., he was issued with an offer of appointment in 1994 and accordingly he had been serving in the Bungalow of an officer since then till his services were orally terminated

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in 2003 whereafter he had, after exhausting the remedies, filed this O.A. The respondents have, however, declined to accept the version of the applicant, as, according to the Register, after the offer of appointment had been made, the applicant never came up to take up the appointment. There has been no records or documents with the respondents to show that he was ever employed.

2. The brief facts of the case, as narrated by the applicant in the list of dates would suffice to have a hang of the case and the same is as under:-

Date	Event
30.6.93	Divisional Rail Manager, North Eastern Railway issued a letter as engagement of the applicant Substitute.
20.7.93	Order of respondent directing the applicant to appear along-with original certificate for age proof and education qualification so that necessary action for medical test could be taken up.
7.12.93	In pursuance of above order, the applicant appeared for medical test and was declared medically fit A-1 and below for substitute against Group 'D' post and certificate was issued by competent authority.
1.3.94	Divisional Rail Manager (P) has issued a letter to Senior Divisional Personnel Officer for necessary action in respect of engagement of the

applicant as Substitute against Group 'D' post.

- 30.6.94 Divisional Rail Manager (P) has issued a letter directing the Station Supdt. Varanasi City North Eastern Railway to engage the applicant as substitute in scale of Rs. 750-940/-.
- Representation made by the applicant to the respondents.
- 9.5.97 General Manager, North Eastern Railway has issued list of 29 candidates who had worked since 1.1.1994 to 30.4.96 for regularization and screening but applicant's name has not been given in the said list.
- 28.2.03 Letter concerning to working days of the applicant.
- 19.5.03 Representation made by the applicant to respondents.
- 16.8.04 Hon'ble Tribunal in Original Application no. 869 of 2004 filed by applicant, in which Hon'ble Tribunal directed the respondent-competent authority to decide the representation of the applicant.
- 24.8.04 The applicant made representation to the respondent for the compliance of order passed by this Hon'ble Tribunal.
- 22.12.04 Letter of respondent through which the applicant was directed to furnish the certificate issued by the authority and also directed to appear in the office

(a)

with relevant documents.

- 27/28.12.04 The applicant submitted his reply to the respondent competent authority against the letter dated 22.12.04 with request to provide working certificate.
- 31.12.04 The respondent illegally arbitrarily discriminatorily passed the non-speaking order without considering the fact and circumstances of the case. Hence, this application is being filed against order dated 31.12.04.

3. The version of the respondents as contained in the counter is as under:-

It is true that the applicant had applied for the post of substitute and an order dated 30-06-1993 was issued for appointment as substitute after observing all the formalities. The applicant presented for medical examination and made available his testimonials for verification by the authorities, in accordance with the order dated 20-07-1993. The D.R.M.(P) had issued the appointment order vide order dated 30-06-1994. However, after the same there had been no trace of the applicant and it was only in 2004 that he filed OA No. 869/2004 alleging oral termination and sought for reinstatement. However, the Tribunal by its order dated 16-08-2004 directed the respondents to dispose of the representation filed by the applicant and in pursuance of the same, the respondents had, after verifying the records, not finding any reference about the service of the applicant, advised the applicant

to show documentary evidence to the effect that he had actually served the organization from 1994 to 2003. As nothing was made available by the applicant, and as there has been no reference available in the records at Varanasi City, where the applicant claimed to have served, it is not possible to hold that the applicant had ever served the organization. According to the respondent, therefore, no case has been made out by the applicant .

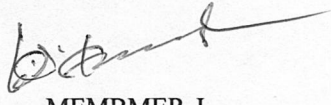
4. Rejoinder has been filed by the applicant, reiterating the contention raised in the OA.

5. The case has been considered and arguments heard. While the applicant was issued with the appointment order as early as in 1994, which the applicant safely preserved, there has been no reference that could be made by the applicant in respect of his actual working in the Respondent's organization. The respondent, the biggest employer of the peninsula has no grudge against the applicant to contend that the applicant had not worked, if the applicant had worked. They had made earnest attempt to see whether there has been any evidence in their record to show that the applicant did work with them. Since no such document is available, they have come to the right conclusion that the applicant has not worked in their organization. Opportunity given to the applicant to produce documentary evidence, was not availed of by the applicant. Even in the Court, during the course of

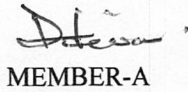
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arguments, no documents have been produced. Thus, it is amply clear that the applicant has not at all worked with the Railways and he had only made an attempt to en-cash the existence of an appointment order dated 30-06-1994 to sneak entry in the Railway service.

6. The application being devoid of merits, is dismissed.
No cost.



MEMBMER-J



MEMBER-A

GIRISH/-