

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH: ALLAHABAD.**

TUESDAY, THIS THE 24TH DAY OF JULY, 2007.

QUORUM : HON. MR. P.K. CHATTERJI, A.M.

ORIGINAL APPLICATION NO. 93 OF 2005.

Chakki Lal, aged about 44 years, Son of, Shri Ramdeen,
Resident of, Baloura, 33 P.A.C. Batalion, Hansari,
District Jhansi.

..... Applicant.

Counsel for applicant: Shri S.M. Ali.

Versus

1. Union of India through the General Manager, North Central Railway, Allahabad.
2. The Divisional Railway Manager, N.C.R., Jhansi.
3. Station Superintendent, North Central Railway, Jhansi.

..... Respondents.

Counsel for Respondents: Sri S.K. Chaturvedi.

ORDER

The applicant worked as Casual Labour ^{in the Railways} from 29.1.1979 to 22.7.1991 in different broken spells. He was sent for medical examination in 1989 in which he was declared fit in B-I category. The applicant's date of birth, according to the records available with the respondents, is 29.1.1960. To ^{prove this} Counsel for the applicant has taken the help of Annexure A-3 (letter of the Respondents dated 7.3.1989 directing him for medical examination) and Casual Labour Card Annexure A-4 (certificate of medical fitness dated 10.3.1989) in which his age was shown as 29 years.

2. In 2001, a notification was issued by the respondents for ~~being~~ screening and subsequent regularization of ex-Casual Labourers. Such ex-Casual Labour, who had performed duties over 120 days and

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whose name figured in the Casual Labour Register, were invited to submit applications carrying all details. The applicant also submitted his application on 19.9.2001 (Annexure A-6). In the application, the date of birth was mentioned wrongly by the applicant as 21.9.1958.

3. The applicant was astonished and aggrieved when he found that inspite of having qualifications, he was not called for screening and regularization. The process of regularization was completed in 2003 after a lapse of about 3 years from the date of notification. When the applicant did not find that he was being approved for regularization, he made inquiries through the respondents and found that his case was rejected as he was over age on the date of application as per the date mentioned in his application i.e. 29.1.1958. The applicant thereafter, furnished an affidavit in which he ^{stated} informed the actual date of birth was 29.1.1960. However, this had no effect on the respondents who did not consider him at all. Being aggrieved, he filed this O.A.

4. The respondents have refuted the claim of the applicant saying that the respondents did not commit any mistake. The facts of the matter have been explained in Paragraphs 12 and 14 of the counter in which it has been stated that the age limit for OBC candidate after regularization was 43 years. As the applicant had mentioned his date of birth as 29.1.1958, he was found to be over age when his application was received and, therefore, they were helpless and they could not do anything. Counsel for the respondents has also stated in course of the arguments that the entire process of their special drive for regularization as Casual Labour was completed four years back. If the respondents have to remain still so much busy in settling such ^{disputes} ~~matters~~ for which they were not responsible, this affects their

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must other works and obviously the Railways cannot be ~~personally occupied in~~ ~~permanently occupy~~ this type of work.

5. Counsel for the applicant says that admittedly the mistake was done on the part of the applicant. However, he says that they could have verified the date of birth from the records available with them and, therefore, could take action accordingly. Counsel for the respondents says that this is an impossible task as the applicants are thousands in numbers and if the respondents had to remain busy in such matters then, it would be at the cost of more important business. Therefore, the respondents have to rely on the information given by the applicant.

6. Counsel for the applicant has drawn ~~by~~^{my} attention to the decision of the Tribunal of Jabalpur Bench in O.A. No.583/04 in which the Tribunal had directed the respondents to relax the age of the applicants and consider them for regularization. Counsel for the applicant has requested that the applicant in this O.A. can be extended the similar benefit and the respondents be so directed. Counsel for the respondents has, however, opposed this ^{by saying} that there is no similarity between these two cases. The other case was not one in which decision was taken on the basis of some wrong information given by the applicants. In the case decided by Jabalpur Bench, the applicants were merely seeking parity with some other Casual Labourers for being allegedly discriminated against those. Therefore, the Judgment will not be applicable in this case.

7. Having gone through the pleadings and having heard the parties, I have applied my mind to the matter. It is unfortunate that the applicant had to pay heavy cost for the mistake of writing his date of birth wrongly but having gone through the pleadings and the arguments, I am of the view that the respondents cannot be faulted on any account. They

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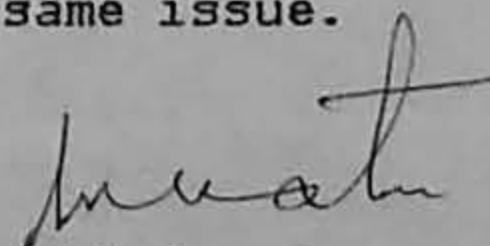
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did not commit any error. At this distant date, they cannot take any action in the matter as it will open perhaps spate of other requests. I, therefore, on the basis of pleadings do not find any merit in the O.A., which, in my view, cannot be allowed.

8. Counsel for the applicant, however, stated that the General Manager has the authority to relax the age limit of ex-Casual Labourers for regularization in very special circumstances. The applicant would be happy if the Tribunal issues directions to the General Manager to consider the case of the applicant sympathetically and exercise his special powers, if any. For this, the applicant is ready to submit a representation to the respondents for consideration. Therefore, it is directed that the applicant will file his representation before the Respondent No.1, the General Manager, N.C.R., Allahabad within a short time. It is further directed that the General Manager, N.C.R., Allahabad will consider the representation taking particularly into account the fact that the applicant had to pay heavily for a mistake committed by him. The applicant has stated that the General Manager has special power for relaxing the age limit in particular circumstances. The position needs to be verified and, therefore, I dispose of this O.A. with direction to the General Manager, N.C.R., Allahabad that within four ^{months} ~~weeks~~ from the date of receipt of the representation from the applicant, he will consider the same and take a decision as admissible within his powers and as deemed appropriate in the special circumstances of this case. No liberty is, however, granted to the applicant to approach the Tribunal further on the same issue.

No order as to costs.


A.M.

Asthana/

14.12.2007

Hon'ble Mr. Justice Khem Karan, V.C.

Though Shri S.M Ali, learned counsel for the applicant has sent illness slip but Shri S.K. Chaturvedi, learned counsel for the respondents says that orders could be passed on his application for extending the time for complying the directions issued in the O.A. He says that matter is in consideration of the respondents and two months may be given to pass appropriate orders.

Learned counsel for the respondents says that upto this date, no contempt application has been filed by the applicant for not obeying the direction of the Tribunal. Request of the respondents for two months time is accepted but no ^{further} other time will be possible. Application No.2484 of 2007 is accordingly disposed of. Record be consigned.


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