

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No. 1046 of 2005

Allahabad, this the 8TH day of February, 2011

Hon'ble Mr. Justice S.C. Sharma, Member (J)

Jehangir Khan aged about 50 years son of Shri Abdul Gafoor resident of 246/47 Kasai Baba, Nainagarh, Nagra, Jhansi.

.....Applicant.

(By Advocate: Shri R.K. Nigam)

V e r s u s

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

.....Respondents.

(By Advocate: Shri D.P. Singh)

O R D E R

Instant O.A. has been instituted for giving direction to the respondents to immediately screen and absorb the applicant in Class IV Group 'D' category in any unit under the respondents.

2. The facts of the case, in brief, are as follows: -

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That the applicant is 8th pass and belongs to OBC community. The applicant had physically worked as casual labour in different units in different spells for a period, as has been alleged in the O.A. The applicant had worked since 21.06.1975 to 15.03.1976 in different spells and thereafter in the Railway Workshop, Jhansi from 14.05.1993 to 31.07.1995, certificates were issued in this connection and filed with the O.A. In spite of casual labour card of the applicant having been sent to Loco Foreman, Jhansi for verification and the formal verification order having been issued on 19.06.1999 by Loco Foreman/Chief Crew Controller, Jhansi vide Service Verification Certificate (Annexure A-III) dated 19.06.1999 but the left over portion of the screening in favour of the applicant had not been taken up and the applicant's case for screening/absorption is still pending. The dealing clerk of the Office of the Chief Workshop Manager had been demanding a heavy sum from the applicant so that his case may be taken up and finalized. The delay since the issuance of notification-dated 01.09.1998 is on administrative account and the applicant does not come in picture.

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Several representations were made but to no avail. Earlier, an O.A. was also instituted but nothing has been done. Formal mandate is required to be issued against the respondent No. 2 so that controversy may be set at rest forever. The applicant is entitled to be screened/absorbed and as the respondents had paid no heed to the request of the applicant hence, the O.A.

3. The respondents contested the case and filed the Counter Reply. It has further been alleged that the applicant has utterly failed to come forthwith and that the O.A. is not within time. It is stated that a letter was sent to the Chief Crew Controller by respondent No. 2 in connection with the verification of the applicant's Casual Card bearing No. 168434 and the period worked which was done by the applicant under their control. Reply was submitted by the Chief Crew Controller, Jhansi that the period cannot be verified because Live Register has ^{been} sent from this Office to Senior D.M.E. office, Jhansi/D.R.M. (P) Jhansi Office vide letter dated 20.06.1995. It was further informed to the respondent No. 2 [✓] that there is

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no name mentioned of applicant Jahangir Khan in the casual live register, which was available in the Office. The D.R.M. (P), Jhansi has returned the Casual Card of the applicant without any verification and remarked that "as there is no ^{any} record and details except to letter on dated 6.7.95 by which the whole matter will be known". It has further been alleged that Senior Personnel Inspector on dated 10.08.1996 has submitted that he personally checked the relevant record which was available in the Office of D.R.M. (P) Jhansi and he found that there is not any Casual ^{Card} ~~Card~~ bearing No. 168434 in the live register nor in the list which was received from the Office of the Superintendent, Printing and Stationery Byculla, Mumbai. In view of the letter of the D.R.M. (P) Jhansi on dated 06.07.1995 and 09.08.1996 in which the applicant was found ineligible and he could not be considered for absorption against Group 'D' post in the aforesaid department. No representation of the applicant was received in the office. It is stated that misleading facts have been alleged before this Tribunal. No record was available with the authority

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concerned. It is stated that necessary process for screening/absorption had already been completed in the year 1999, hence the claim of the applicant is not acceptable under the extent rules of the Railway. The claim is null and void and it cannot be considered. O.A. is liable to be dismissed.

4. I have heard Mr. R.K. Nigam, Advocate for the applicant and Mr. D.P. Singh, Advocate for the respondents and perused the entire facts of the case.

5. From perusal of the pleadings of the parties, it is evident that the applicant worked as casual labour in different units in different spells, firstly in the Loco Shed, Jhansi under D.R.M. Jhansi from 21.06.1975 to 15.03.1976, annexure A-3 is the Photostat copy to this effect. I have perused the annexure A-3 and this fact is correct that the applicant worked in different spells from 21.06.1975 to 15.03.1976. It has further been alleged that he worked in Railway Workshop, Jhansi under respondent No. 2 from 14.05.1993 to 31.07.1995. It has also been alleged by the applicant that

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the letter was issued on 14.07.1993 by the Chief Workshop Manager-respondent No. 3. Annexure A-4 is a letter issued by the Chief Workshop Manager regarding regularisation of casual labour Waterman of Summer Vacation. Annexure A-5 is also the letter in this connection. Annexure A-6 is the letter regarding regularisation of the employees. A representation was submitted by the applicant in the month of July 1999 that in the case of his counter part without ^{taking} ~~giving~~ cognizance to adequate norms, appointment has been provided whereas there is no ambiguity in the record of the applicant, as such, his case must be considered. Thereafter, a representation (annexure A-9) was also made for screening/regularisation. Earlier vide letter dated 21.07.1994, an information was furnished to the effect that "That almost all the casual labour cards have been verified. However, the working of those casual labourers who had also worked under Loco Foreman, Jhansi the enquiries are going on and when the enquiries are finalized and final report is received, the matter shall be considered." The applicant alleges that this is a case of discrimination. Definite

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case of the respondents is that a letter was sent to the Chief Crew Controller, Jhansi by respondent No. 2 in connection with the verification of the applicant's ~~counsel~~ ^{casual} card bearing No. 168434. But it could not be verified by the Chief Crew Controller. Earlier, it was informed that entire records have been sent to the D.R.M. (P) Jhansi but later on it was alleged that it was checked and it was found that there is not any casual card bearing No. 168434 in the Live Casual Labour Register. It is alleged by the respondents that no representation was received from the applicant.

6. Annexure-1 filed with the Counter Reply is a letter of Chief Crew Controller, Jhansi and it was stated in this letter that Card No. 168434 is at page No. 63 of the Casual Service Card Register and entries have also been made regarding the working period of the person concerned. But at this time, it cannot be verified, as the Live Register is not available with him. Annexure-2 of the Counter Affidavit is also regarding the same that casual card could not be verified but in annexur-3 of the

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Counter Affidavit, it has been alleged that name of the applicant is not in the Casual Live Register, available in this division. In Annexure-5 also the same fact has been alleged that this Casual Labour Card has not been entered in the Casual Labour Live Register. It appears that the candidature of the applicant could not be considered on the ground that Casual Labour Card was not entered in the Casual Live Register. But it appears highly improbable that the Card was issued by the Railway department but it was not entered in the Casual Labour Live Register. A Rejoinder Affidavit was filed by the applicant and it has been alleged that 22 hot weather staff were to be absorbed and their names have been mentioned in the Affidavit. The name of the applicant is at serial No. 22. It has further been alleged that all the individuals had been screened and absorbed except the applicant and that there is no rational in rejecting the case of the applicant. It has also been alleged by the applicant ^{that} the respondents had distorted the facts. Once it has been alleged that applicant's name is at page No. 22 but later on his name was singled out, whereas the entries

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relating to the Loco Shed Jhansi were duly verified by the authorities. It has further been alleged that in case the casual labour card is ^{not} found ~~is~~ genuine then he is ready to go to jail and face the consequences. It has also been alleged that the applicant is entitled to be absorbed.

7. Paper annexure SRA-1 is also a certificate of casual labour Loco Foreman, Loco Shed, Jhansi and the applicant's Card No. 168434 is mentioned in the same and the Chief Crew Controller issued this certificate. Annexure RA-2 is also a certificate issued by the Chief Factory Manager, Jhansi ^{which} ~~with~~ mention ^{the} ~~that~~ name of 22 persons have been recommended for regularisation vide letter dated 30.11.1998 and his casual labour card is 168434. In response of the Rejoinder Affidavit, Supplementary Counter Reply has also been filed on behalf of the respondents and it was alleged that a letter was sent to the Chief Crew Controller, Jhansi in connection with the verification of the applicant's casual card bearing No. 168434 and the period ^{during} ~~worked~~ which ^{work} ~~was~~ done by the applicant under their control, after it Chief

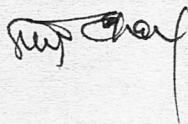
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Crew Controller, Jhansi has returned the casual service card of the applicant with the remark, which is as under: -

"the period cannot be verified because the live register has sent from the Office to Senior D.M.E. Office Jhansi/D.R.M. (P) Jhansi office vide letter No. PS/13 B Part II on dated 20.6.95."

It is the case of the respondents that there was no violation of the Rules. Name of the applicant was not mentioned in the Live Casual Labour Register and hence his case was not considered as the applicant was not found eligible and there is no entry of the Casual Labour Card in the Casual Live Register and his case was not considered.

8. From perusal of the pleadings, it is evident that the case of the applicant was rejected on the ground that there is no entry of the Casual Labour Card of the applicant in the Casual Live Register, maintained by the respondents. But there is overwhelming evidence that the Casual Labour Card was issued by the respondents' office and a certificate was issued to the effect, and the working period of has also been verified. On the verification of evidence how can it be possible



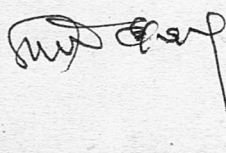
that the certificates were issued by the respondents regarding casual labour card No. 168434 and the period during which the applicant worked otherwise it has ^{not} been alleged by the respondents that the case of the applicant was not fit for regularisation and his case was rejected mainly on the ground that there is no entry in the Casual Labour Live Register. It appears that proper inquiry has not been made by the respondents in this connection and valuable rights of the persons have been affected by this negligence of the respondents. It can only be said that due steps have not been taken for verification of the Casual Card as well as verification of the period during which he worked with the respondents. If the casual card is false and forged, then action must be initiated against the applicant otherwise the applicant is fit for regularisation and his case must be considered. There appears no justifiable reason in rejecting the case of the applicant for regularisation.

9. For the reasons mentioned above, I am of the opinion that the case of the applicant had


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been rejected illegally for regularisation on the pretext that there is no entry of the Casual Labour Card No. 168434 in the Casual Labour Live Register whereas there is overwhelming evidence to establish this fact. It appears that the respondents are highly negligent in denying the claim of the applicant. Under the circumstances, it is necessary to give a direction to the respondents to verify the genuineness of the casual labour card of the applicant and the record filed by the applicant in the O.A., showing the period during which he had worked, therefore steps must be taken by the respondents for regularizing the applicant. O.A. deserves to be allowed.

10. O.A. is allowed. The respondents are directed to ~~take~~ ^{conduct} proper inquiry in verifying the Casual Labour Card of the applicant and also the period during which he had worked and then the applicant must be regularized in Class-IV/Group-D category from the date when his other colleagues were regularized. The respondents shall comply the order of this Tribunal within a period of three



months from the date of receipt of a copy of
this Order ^{by} ~~before~~ them. The applicant shall
also produce a copy of this Order in the Office
of the respondents forthwith. No cost.


{Justice S.C. Sharma}
Member -J

/M.M/