

(RESERVED)

**CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
ALLAHABAD**

This is the 22nd day of September 2021

ORIGINAL APPLICATION NO. 330/00589 of 2015

HON'BLE MR. TARUN SHRIDHAR, MEMBER (A)

Ramzan Khan S/o Late Shri Bashir Ahmad, R/o Birkha Koli Ka Bada,
Tansen Road, Gwalior

.....Applicant.

Advocates for the Applicant : Mr. A.K Dave/Ms. Archana Gupta

VERSUS

1. Union of India through General Manager, North Central Railway, Allahabad.
2. General Manager (P), North Central Railway, Allahabad.
3. Chief Personnel Officer, North Central Railway, Allahabad.
4. Deputy Chief Controller of Store, Store Depot, North Central Railway, Jhansi.

.....Respondents

Advocate for the Respondents : Shri Sanjay Kumar Ray

ORDER

The applicant seeks regularization of service in Group 'D' by offering him relaxation in the upper age limit. In the instant OA, he has sought the following reliefs:-

- “(i) To quash and set-aside the impugned order dated 26.5.2009 (Annexure No. A-1) and the order dated 25.11.2009 (Annexure No. A-2) passed by the respondents.*
- (ii) direct respondents to appoint/re-engage the applicant by grant age relaxation to the applicant not only belong OBC*

candidate but also due to long spell of time spent in Tribunal/High Court from 1996-2007, during which he was eligible as per rules regarding age limit.

- (iii) Direct respondents to regularize applicant/s service in Group 'D' on overall consideration of the circumstances of the case.*
- (iv) To grant all consequential benefits to the applicant.*
- (v) to pass any other and further order as this Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case.*
- (vi) To award cost of the application”.*

2. Brief facts of the case are that the applicant was engaged as a casual labour during October 1986 and subsequently after 4 years, he appeared before the screening committee for the purpose of considering him for regularization. However outcome of that screening is not known.

3. Initially the applicant agitated this matter before the Jabalpur Bench of the Tribunal in OA No. 339 of 1994 but this got dismissed as withdrawn. Subsequently, he filed another OA No. 645 of 1998 in this Tribunal, which was decided on 25.2.2003 with the following directions:-

“For the aforesaid reasons the OA is disposed of with direction to the respondents that the applicant may be granted temporary status, if he has not been already granted the same. His name shall be entered in the Live Casual Labour Register at an appropriate place. The case of the applicant for regular appointment shall be considered on his turn. No order as to costs”.

4. The respondents challenged this order in Civil Misc. Writ Petition No. 23308 of 2003 in the Hon'ble High Court of Allahabad, which was disposed of on 25.5.2007 with the following directions:-

“In the result the writ petition is partly allowed and the order of the Tribunal insofar as it directs the petitioners to grant temporary status to respondent No.2, is set aside. The rest of the directions issued by the Tribunal shall remain intact and shall be complied with by the petitioners with further modification that for regular appointment respondent No.2 would be entitled to be considered only if it is permissible under the rules and in the light of law laid down by the Apex Court in Secretary State of Karnataka Vs. Uma Devi, (2006) 4 SCC 1”.

5. Pursuant to this, applicant was informed that since his name is in the Live Casual Labour Register, it would be considered for regular appointment against further class IV vacancies. However, this claim got rejected later-on on account of his being over-age and this is precisely what the applicant is now challenged in this case.

6. Learned counsel for the applicant argues that since the applicant's claim was screened as far back as 1990, he cannot be denied the opportunity of regular appointment at such a belated stage. He further points out that there was a categorical assurance offered to the applicant for a regular appointment against future vacancies. Learned counsel for the applicant would go on to argue that even though Hon'ble High Court had disallowed temporary status, the name of the applicant was protected in live register. He vehemently argues that it is on account of the delay by the respondents in deciding the claim of the applicant that the applicant has become over-aged now. He further points out that as per seniority list of

casual labour, it is evidenced that many persons junior to the applicant have been given appointment and also points out that appointment has also been given to the persons who are older in age to the applicant, hence grounds for rejection cannot hold.

7. Learned counsel for the respondents, on the other hand, rebuts that the claim of the applicant has been suitably considered in accordance with the rules and guidelines of the Railway Board and decided accordingly. He further argues that the order passed by the Tribunal in OA No. 645 of 1998, subsequently modified by the Hon'ble High Court has been fully complied with and nothing now remained to be adjudicated upon.

8. I have carefully examined the case file and given a patient hearing to the learned counsel for the parties. The impugned orders make it abundantly clear that the applicant's claim has been duly considered for more than one occasion by the respondents. Moreover, the authorities have considered all the facts and the arguments put-forth by the applicant in support of his claim. It also transpires from the documents on record that it is not only a question of the applicant being over-aged, his date of birth, educational qualification and other official documents are also not available on record. No infirmity in the impugned order which gives sufficient evidence of having been passed after due application of mind. On the other hand I cannot also ignore the fact that the applicant has been in regular engagement as a casual labour since the year 1986 and hence the rules need to be applied with the degree of compassion and reasonableness.

9. Accordingly, this OA is disposed of with the direction to the respondents that the OA be treated as representation and the claim of the

applicant be decided de-novo for regular appointment taking into consideration the long year of service he has rendered. It is specifically directed that while deciding his claim, the fact of his having become over-age, shall be overlooked since this situation has arisen on account of non-settlement of his claim within time as also pending litigations in the matter. With the further direction to decide this claim/representation within a period of six weeks from the date of receipt of a certified copy of this order, the OA is disposed of. No order as to costs.

(TARUN SHRIDHAR)
Member (A)

Manish/-