

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH
JABALPUR

Original Application No.200/00051/2017

Jabalpur, this Thursday, the 5th day of August, 2021

HON'BLE SHRI RAMESH SINGH THAKUR, JUDICIAL MEMBER
HON'BLE MS. NAINI JAYASEELAN, ADMINISTRATIVE MEMBER



Om Prakash Verma,
S/o Lalji Prasad Verma
Aged 55 years
R/o Shivpuri District
Gwalior Region M.P.

-Applicant

(By Advocate –**Shri Akash Choudhary**)

V e r s u s

1. Union of India,
Through Its General Manager
Western Central Railway
Indira Market Jabalpur (M.P.)

2. Divisional Railway Manager (Personnel)
Western Central Railway
Bhopal Division
Bhopal

3. Senior Section Engineer Tele
Western Central Railway
Shivpuri District Guna

- Respondents

(By Advocate –**Shri Arun Soni**)
(Date of reserving the order:19.03.2021)

ORDER**By Ramesh Singh Thakur, JM:-**

This Original Application has been filed by the applicant against the inaction of the respondents in still continuing the applicant as Monthly Rated Casual Labour (MRCL) and also not extending the applicant the benefit of timely promotion, MACP, seniority and other attended benefits upon reinstatement of the applicant pursuant to the direction issued by Central Government Industrial Tribunal cum Labour Court in the award passed in CGIT dated 02.11.2001.

2. The applicant has sought for the following reliefs:-

“8(i) Summon the entire relevant records for kind perusal of this Hon’ Tribunal.

(ii) Command the respondents to regularize the service of the applicant on the basis of the recommendations made by the screening committee in the year 1988 with all the consequential benefits arising thereto.

(iii) Upon regularization the service of the applicant, further command the respondents to provide all the consequential benefits to the applicant with seniority, benefit of MACP promotion if any.

(iv) Any other relief, which this Hon’ble Tribunal deems fit may also be granted together with cost of this litigation.”

3. The fact of the case is that the applicant was initially appointed as Causal Labour in the year 1987 and later got promoted as MRCL employee in the year 1988. The applicant was



dismissed from service vide order dated 01.11.1990 on account of unauthorized absence from duty. Being aggrieved the applicant filed a case No. CGIT/LC/206/99 before the Central Industrial cum Labour Court Jabalpur whereby the Court vide award dated 02.11.2001 had quashed the order of termination and reinstated the applicant in service without any back wages and other monetary benefits and further held that the period of absence from duty be treated on duty only for the purpose of pensionary benefits. In compliance of the order, the applicant was reinstated in service on 22.02.2002 and was given the status of monthly rated casual labour. The applicant was not given the benefit of due seniority, MACP and also regularization from the post of monthly rated casual labour in terms of the provision contend in Para 179 (13 of IREM). The applicant has filed various representations to the authorities but of no avail.

4. The respondents Nos.1 and 2 have filed the reply wherein it has been submitted that his initial appointment was as Casual Labour was not as per Provisions of Para (2) & (3) of note (8) of rule 2001 (Chapter XX) Indian Railway Establishment Manual Vol.- II (Revised Edition 1990), the intake of "fresh faces" as casual labour is not permitted except where prior personal approval of the General Manager has been obtained but the applicant was



engaged without the prior personal approval of the General Manager therefore his services cannot be regularized and so far as the benefit of MACPs is concerned that is only for regular employees and since applicant is not a regular employee therefore the benefit of MACP cannot be extended in his favour. Further the respondents have submitted that the applicant worked as Causal Labour in the year 1987 and on completion of more than 120 days of continuous employment the applicant was given the temporary status as Monthly Rated Casual Labour (MRCL) in the pay scale of Rs.750-940 (RPS) w.e.f.05.02.1988. The applicant was absent from duty from 03.01.1989 to 04.12.1989 hence removed from Railway Services w.e.f.15.10.1990 under the Railway Servants (Discipline & Appeal) Rules, 1968 by the Railway Administration. The applicant filed a case before CGIT and on 01.11.2001, the CGIT had quashed the penalty dated 15.10.1990 and was taken on duty w.e.f.23.02.2002. The respondents further submitted that in terms of provision contained in Para 2005 (b) of IREM Vol.-II such causal labour who acquire temporary status, will not however be brought on to the permanent or regular establishment or treated as in regular employment on Railways until and unless they are selected through regular Selection Board for Group D Posts in the manner laid down from to time . Further respondents submitted that



the services of casual labour is regularized in Group D post under the provisions contained in Para 2006 (i) of the IREM Vol.-II which states that "Absorption of casual labor in regular Group D employment may be considered in accordance with instructions issued by the Railway Board from time to time. Such absorption is however not automatic but is subject inter alia to availability of vacancies and suitability and eligibility of individual casual labour and rules regarding seniority under method of absorption etc. decided by the Railway Administration (Annexure R-1). The Railway Board New Delhi vide letter dated 10.06.2009 issued under RBE No.101/2009 have decided that the Casual employees including those granted temporary status shall not qualify for benefits under the MACPs (Annexure A-4).

5. The applicant has filed the rejoinder to the reply filed by respondents Nos.1 and 2 and has reiterated its earlier stand taken in the Original Application. Further the applicant has submitted that in regard to continuity in service and regularization it has to be scrutinized in terms of the Provisions contained in Indian Railway Establishment Manual of the year 1987. Moreover the concept of 'fresh face is not applicable to the applicant as the applicant was already granted temporary status and was treated to be MRCL by the respondent. The clause invoked by the respondent to negate

the claim of the applicant is applicable as the same is applicable to the workers who are freshly engagement after disengaging the casual labour but are already in employment with the respondents. The clause is only made applicable in the eventuality if it becomes necessary to engage additional casual labour and discharge casual labour who have been re-employed then fresh faces can be inducted but with the consent of general Manager, the said arrangement is strictly in consonance with the principles enumerated in the Industrial Dispute Act, 1947.



6. Heard the learned counsel for both the parties and perused the pleadings and documents attached with the O.A.

7. From the pleadings it is clear that the applicant was appointed as casual labour in the year 1987 and was later promoted as MRCL employee in the year 1988. Thereafter, the applicant remain absent from duty with effect from 03.01.1989 to 04.12.1989 and the respondents removed the applicant from Railway service under the Railway Servants (Discipline & Appeal) Rules, 1968. IT is also admitted fact that the applicant filed the case before the CGIT and on 01.11.2001, CGIT has quashed the penalty dated 15.10.1990 and was taken on duty on 23.02.2002.

8. The contention of the applicant is that the CGIT has quashed the order of termination and the applicant was reinstated in service

and CGIT has held that the period of absence from duty be treated on duty only for the purpose of pensionary benefits. In compliance of the order, the applicant was reinstated in service on 22.02.2002 and was given the status of monthly rated casual labour. The applicant was not given the benefit of due seniority, MACP and also regularization from the post of monthly rated casual labour.



9. On the other side, the respondents has submitted that as per The respondents Nos.1 and 2 have filed the reply wherein it has been submitted that his initial appointment was as Casual Labour was not as per Provisions of Para (2) & (3) of note (8) of rule 2001 (Chapter XX) Indian Railway Establishment Manual Vol.-II (Revised Edition 1990), the intake of “fresh faces’ as causal labour is not permitted except where prior personal approval of the General Manager has been obtained but the applicant was engaged without the prior personal approval of the General Manager. Secondly, the services of the applicant has not been regularized and so far as the benefit of MACPs is concerned that is only for regular employees and since applicant is not a regular employee therefore the benefit of MACP cannot be extended in his favour. It has been further contended by the respondents that after completion of more than 120 days of continuous service the applicant has been given temporary status as Monthly Rated Casual Labour (MRCL) in the



pay scale of Rs.750-940 (RPS) w.e.f.05.02.1988. The applicant was absent from duty from 03.01.1989 to 04.12.1989 hence removed from Railway Services w.e.f.15.10.1990 under the Railway Servants (Discipline & Appeal) Rules, 1968 by the Railway Administration. The applicant filed a case before CGIT and on 01.11.2001, the CGIT had quashed the penalty dated 15.10.1990 and was taken on duty w.e.f.23.02.2002. The respondents further submitted that in terms of provision contained in Para 2005 (b) of IREM Vol.-II such casual labour who acquire temporary status, will not however be brought on to the permanent or regular establishment or treated as in regular employment on Railways until and unless they are selected through regular Selection Board for Group D Posts in the manner laid down from time to time. Further respondents submitted that the services of casual labour is regularized in Group D post under the provisions contained in Para 2006 (i) of the IREM Vol.-II which states that "Absorption of casual labor in regular Group D employment may be considered in accordance with instructions issued by the Railway Board from time to time. Such absorption is however not automatic but is subject inter alia to availability of vacancies and suitability and eligibility of individual casual labour and rules regarding seniority under method of absorption etc. decided by the Railway

Administration (Annexure R-1). The Railway Board New Delhi vide letter dated 10.06.2009 issued under RBE No.101/2009 have decided that the Casual employees including those granted temporary status shall not qualify for benefits under the MACPs (Annexure A-4).



10. In the instant case, the applicant is a casual labour and he has obtained temporary status on 1988 and as per Para 2005 (b) of IREM Volume II such casual labour who acquire temporary status, will not however be brought on to the permanent or regular establishment or treated as in regular employment on Railways until and unless they are selected through regular Selection Board for Group D post. Further in Para 2006 (i) of the IREM Vol.II it is clearly stated that absorption of casual labour in regular Group D employment may be considered in accordance with the instructions issued by the Railway Board from time to time.

11. So in view of the above clear position there is no merit in this case.

12. Resultantly, the Original Application is dismissed begin devoid of any merit. No order as to costs.

(Naini Jayaseelan)
Administrative Member

(Ramesh Singh Thakur)
Judicial Member

Kc/rn