

(13/1) (10)

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration No. 24 of 1986.

Chhotey Lal

applicant.

Versus

U.P., Mukhya Engineer, N.R. Allahabad
and others.

Respondents

Hon'ble G.S. Sharma, A.M.

Hon'ble G.S. Sharma, J.M.

(By Hon'ble D.S. Misra)

This is an application under Section 19 of the A.T. Act XIII of 1985 against the order dated 15.7.85 passed by Sahayak Abhiyanta (Samanya), Concrete Sleeper Plant, Northern Railway Subedarganj, Allahabad (respondent no. 4) relating to screening list which was not supplied to the applicant and order dated 16.7.1985 passed by the Workshop Superintendent, Concrete Sleeper Plant, Northern Railway Subedarganj (respondent no. 3) offering to submit declaration paper of the employees for panel.

2. The case of the applicant is that he was working as labour in the Concrete Sleeper Plant Northern Railway Subedarganj since 26.6.82; that the applicant came to know that a seniority list is being prepared and published from the office of respondents nos. 3 and 4 on 25.6.85 and his name was not included; that the applicant immediately rushed to the higher authorities and moved an application before the respondent no. 2 on 27.6.85 (copy annexure 1); that his name may also be included in the seniority list for his

selection in the panel; that the respondent no. 4 issued

-2-

a screening list dated 15.7.85 and in this list while some employees who were junior than the applicant were included in the screening list, the name of the applicant did not find place; that the applicant has worked for 1167 days as Khalasi/labour and is fully entitled to be included in the Screening List but the respondents have declared the panel on 16.10.1985 (copy annexure 2) without including his name; that the applicant made two representations dated 14.8.85 and 16.8.85 to Deputy Chief Engineer, Concrete Sleeper Plant, Northern Railway, Allahabad (respondent no.1), but no orders have been passed on his representations mentioned above (copy annexures 3 and 4); that while the name of four junior persons are included in the panel list dated 17.12.85, the applicant's name does not find place there. The applicant has prayed that his name may be included in the screening list dated 15.7.85 and the panel list dated 17.12.85.

3. In the reply filed on behalf of the respondents it is stated that the applicant worked with I.O.W. (Construction) Northern Railway, Allahabad from 17.3.81 to 31.3.81 and was also engaged as a casual labour/khalasi in the Concrete Sleeper Plant, Subedarganj, Allahabad on 27.6.82; that the provisional seniority list was displaced on 27.3.85 and the employees were asked to submit their representations by 10.4.85; that no representation was received from the applicant till 10.4.85 and he submitted a representation on 27.6.85; that the applicant's representation was considered and his seniority was carried and his working days were changed from 845 days to 902 days; that the applicant will be entitled to be placed in the panel after he is screened and selected by the screening committee as and when the screening committee meets next; that no person junior to the applicant has been called for

bc

(82/12) (12)

-3-

the screening test and all the four persons mentioned by the applicant have more working days and are senior to the applicant and that the applicant is not entitled to any relief.

4. In the rejoinder affidavit filed on behalf of the applicant it is stated that he had worked for a period of 240 days during the period 1977 to 31.3.81 in addition to the number of days accepted by the respondents in their reply. He filed a copy of his initial appointment as casual labour from 1977 (annexure 1). The applicant has contended that he worked for a total number of 1167 days and since persons junior than the applicant had been called for the screening test, the applicant is also entitled for the screening test. In the supplementary counter affidavit filed on behalf of the respondents, it is stated that the period of 240 days during which the applicant worked from 1977 to 30.9.78 has not been counted towards continuous service of the applicant for the purpose of seniority in terms of Circular of the Railway Board dated 22.9.84 (copy annexure 1). The respondents filed a chart showing period of service accounted for in respect of the four persons mentioned in the petition of the applicant (annexure 2) and another chart showing the actual working period of the applicant during periods 17.3.81 to 31.12.84. Subsequently the respondents filed an amendment application to their reply filed earlier in which it is stated that the competent authority has further regularised the period of the absence of the applicant from 30.4.84 to 10.5.84 and as such the total number of working of the applicant would now be 902 plus 11, i.e. 913 days.

be

-4-

5. We have heard the arguments of the learned counsel for the parties. Learned counsel for the applicant contends that the respondents having admitted that the applicant had worked for 913 days, he has become senior to the following two persons out of the 4 persons mentioned in his claim petition (1) Sri Amar Singh 905 days and (2) Raj Mani Dubey 905 days. From a perusal of the chart, at annexure 2, it would appear that Sri Virendra Singh has worked for 1649 days and Mohd. Hashim has worked for 915 days. In this way, the position of the applicant is senior to Amar Singh and Rajmani Dubey and junior to Virendra Singh and Mohd. Hashim. The applicant's contention is that his name should have been included in the screening list dated 15.7.85, as he has filed his objection to the number of days shown against his name vide his representation dated 27.6.85. The applicant further contends that it was the duty of the respondents to have given the correct figure at that time itself and his juniors were called for the screening test, he should have been also included in the screening test. It has been stated on behalf of the respondents that the applicant shall be included in the screening test which will be held in future. The contention of the applicant is that the screening test was held on 15.7.85 almost one year after he made his representation and if he is made to wait until the next screening test is held, he will be suffering irreparable loss.

6. We have considered the matter and we are of the opinion that the applicant being a low paid casual labour deserves sympathy. According to the admission of the

pl

82/5
14

-5-

respondents, the applicant has worked for 913 days and had become senior to two other persons, who were included in the screening test. It has not been denied by the respondents that the applicant had made repeated representations regarding number of days for which he had worked shown in the list prepared by respondent no. 4 and that if his representations had been decided expeditiously, he would have become senior to at least two persons, who were put in the screening test even though they had worked for less number of days. We are of the opinion that it was the duty and responsibility of the respondents to have decided the representation of the applicant before depriving him of the opportunity to be produced before the screening committee. We are also satisfied that the applicant will be put to irreparable loss if his case is kept pending for consideration by the next screening committee for which no probable date is yet available. Accordingly we direct the respondents to place the case of the applicant before the screening committee within a period of 3 months of the receipt of this order and in the event of his being selected to place his name above his juniors who have already been included in the panel with all consequential benefits.

For the reasons mentioned above the petition is disposed of accordingly *be accordingly* without any order as to costs.

Sharma
9.2.88
A.M.

Sharma
9/2/88
J.M.