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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration no. 980 of 1986(T)

Imlak Ahmad

Plaintiff/applicant

Vs.

U.O.India(G.M.,N.Rly. H.Q.)

Baroda House New Delhi and another

Defendants/respondents

Hon'ble D.S.Misra,A.M.

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

(Delivered by Hnn'ble D.S.Misra)

This is an original suit no.836 of 1984 which was pending in the court of Munsif(West) Allahabad and has come on transfer under section 29 of the A.T.Act XIII of 1985.

2.The plaintiff's case is that he was recruited as a casual khalasi on 17.10.1966 under the control of the Divisional Railway Manager,Northern Railway,Allahabad(defendant no.2) and his services were terminated from 30.10.1972 due to shrinkage in work; that it is the policy of the railway administration that persons who have worked in the railway earlier and whose services were terminated due to shrinkage in cadre or for want of sanction should be recruited in class IV category and made permanent thereof; that the plaintiff made various representations to the defendants, but the defendants have acted illegally in appointing junior persons and depriving the plaintiff from his right of appointment in the railway administration; that the cause of action arose in the month of July,1981 when persons junior to the plaintiff were recruited in railway and the plaintiff served the notice under section 80 c.p.c., but neither any reply to the notice was received, nor the plaintiff was appointed as per direction of the Railway Board. The plaintiff has sought a direction that the defendants be directed to give appointment to the plaintiff from December,1981 when persons who had rendered these services in the railway were appointed. The plaintiff did not file any paper in support of his allegations.

2.In the reply filed on behalf of the defendants, it is stated that the services of the plaintiff were terminated under

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section 149 Vol.I of the Indian Railway Establishment Manual due to expiry of sanction of cadre and he was also given one month's pay in lieu of one month's notice as per instant rules; that the plaintiff never approached the recruitment authority for ~~which~~ re-engagement at any stage at the time of recruitment and he resorted to filing cases in the court of law and all these three cases were dismissed; that it is incorrect that cause of action arose on December, 1981 as the plaintiff was engaged in fighting the legal suits with the defendants in different courts of law, which were dismissed by the Hon'ble court, the last one having been dismissed on 18.4.83; that the plaintiff was engaged in construction organization and his services were terminated in accordance with the instant rules and that the application is barred by principles of res judicata and the suit be dismissed.

4. We have heard learned counsel for the parties and have also gone through the records of the case. Learned counsel for the plaintiff contended that the plaintiff had worked with the railway administration for more than 6 years and had acquired the right to be absorbed as a class IV employee on a permanent basis and that persons junior to the plaintiff have been appointed to the class IV post in the year 1981, but the plaintiff has been denied his right by the defendants. As against this, the defendants have denied that the applicant ever approached them for being given any employment. In the absence of any documents filed by the plaintiff as well as the defendants in support of their respective allegations, we have to consider the matter on the basis of material available in the plaint and the reply filed by the defendants.

According to the defendants, the plaintiff did not accept one month's salary in lieu of notice when his services were terminated on 5.10.72 under section 149 of the Indian Railway Establishment Manual. The defendants also stated that the plaintiff had also filed various suits in the law courts and the last suit was decided in the year 1983. This admission on the part of the defendants is sufficient to prove the allegation of the plaintiff that he had approached them for being provided <sup>by</sup> ~~on~~ a job but the same was denied to him. The defendants have not denied the claim of the plaintiff that persons junior to the plaintiff were provided job in the year 1981. It is not unlikely that on account of the various suits filed by the plaintiff in the courts of law, the defendants may have developed a prejudice against the plaintiff. Whatever may be the reasons for defendants not considering the case of the plaintiff, we are of the opinion that the plaintiff <sup>had</sup> acquired the right to be considered



A2  
3

persons junior to ~~him~~<sub>3</sub>

along with ~~others~~<sub>for</sub> for absorption in a regular vacancy as a class IV employee when-ever such recruitment was made by defendant no.2. Accordingly we direct that the plaintiff be provided one opportunity for being considered for regular class IV post under defendant no.2.

The suit is decided accordingly. We make no order as to cost.

*A.M.*  
31/8/87  
A.M.

*J.M.*  
31/8/87  
J.M.

JS/31.8.1987