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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

.....

Registration T.A.No. 1528 of 1986

Pradeep Kumar Dubey

.....

Applicant

Vs.

Union of India & Others

.....

Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. A.B. Gorthi, Member (A))

In the Original Suit No. 107 of 1980 filed in the Court of Munsif-I, Jhansi, Shri Pradeep Kumar Dubey the plaintiff sought an injunction directing the opposite parties, namely, General Manager, Central Railway to appoint the plaintiff as 'Ticket Collector' w.e.f. 1.8.1978, on the ground that his father Shri Ram Gopal Dubey served as Fireman-II in the Loco Shed, Jhansi from 1955 to 1968 when he was declared medically unfit. The suit was decreed ex-parte in favour of the plaintiff and an appeal against it was dismissed on 25.5.1963. A Civil Misc. Writ Petition filed on behalf of the Union of India was allowed by the Allahabad High Court, which directed that the suit be restored to its Original number and be disposed of expeditiously, vide its judgment dated 20.10.85. However, due to coming into force of the Administrative Tribunals Act, 1985, the original suit has been transferred to this Tribunal.

2. The plaintiff brought out that on an application from his mother the Railway Authorities tested him and selected him for appointment as 'Ticket Collector'. In the meantime the Railway Authorities found out from the Settlement Register that the father of the plaintiff resigned on 7.12.63 and there was nothing on record to show that he was declared medically unfit on 13.11.68 as alleged by the plaintiff. According to the plaintiff's

case for appointment on compassionate ground was rejected.

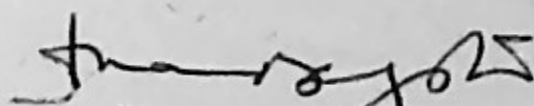
3. Learned counsel for the plaintiff vehemently alleged before us that firstly it was ^{the} responsibility of the Railway Authorities to show, with the help of authentic documentary evidence, that the petitioner's father was not declared medically unfit, if that be the case and secondly the documents relied upon by the plaintiff would clearly show that his father was indeed declared medically unfit on 13.11.68. The said documents included a certificate signed by two railway employees and counter signed by L.F. Jhansi on 26.7.78 to the effect that Shri Ram Gopal Dubey, Fireman-II No.480 worked at Loco Shed, Jhansi and was declared medically unfit w.e.f. 13.11.68. Another document, namely, the report of Labour Welfare Inspector, dated 7.4.78 also would show that Shri Ram Gopal Dubey was declared medically unfit in November, 1968. In this report an inter-polation was made which reads, "As per party's statement, no record is available".

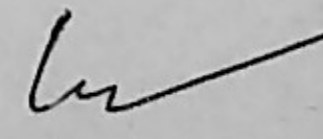
4. The respondents in their written statement admitted at the very outset that, "Nothing can be said exactly (as regards the exact date and mode relinquishment of service) as the relevant record like personal file and service register of the father of the plaintiff was not available, being a very old case of S.R.P.F." The respondents mainly relied on an entry found in the Settlement Register to the effect that Shri R.G. Dubey resigned on 7.12.63. Though they produced the photostat copy of the Labour Welfare Inspector's report, they were unable to produce the original despite directions from this Tribunal. The record produced by the learned counsel for the respondents, did not disclose any such material as would help in determining the issue one way or the other. Except for the entry in

Settlement Register, the respondents had no other documentary evidence to support their refusal to entertain the claim of the plaintiff. Even the entry in the Settle Register appears to be vague in that, neither the employee's father's name was recorded nor does it show any other service particulars from which one could come to the definite conclusion ~~that~~ the entry pertains to the father of the plaintiff and none else.

5. It cannot be said with any amount of certainty ~~that~~ the plaintiff made a false claim or that the claim was falsely supported by the other railway employees. Under these circumstances the plaintiff's case deserves to be considered sympathetically because what is certain, in any case is that he is the son of an ex-employee of the railway's and has a large number of dependents to maintain. He was also found suitable for employment as 'Ticket Collector' after proper test. The respondents are therefore, hereby directed to consider the case of the plaintiff with compassion and offer him if not the job of 'Ticket Collector', any other ^{appropriate} ~~suitable~~ employment for which he is suitable. In considering his employability the fact that he might have become over-age would not be held against him.

6. The suit is disposed of in the above terms, without any order as to costs.


Member (A)


Vice-Chairman

NOV
21 October, 1991, ALLD..
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