

11/11
6

Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 367 of 1987

Mustafa Abidi	Applicant.
Versus		
Union of India and others	Respondents.

Hon'ble D.K. Agrawal, J.M.
Hon'ble Miss Usha Savara, A.M.

(By Hon'ble D.K. Agrawal, J.M.)

This application, under Section 19 of the Administrative Tribunals Act, 1985, is directed against the alleged termination of the applicant with effect from 24.11.1986.

2. Briefly, the facts of the case are that the applicant was employed as Casual Labour in the year 1982, given the status of Monthly Rated Casual Labour (MRCL) sometime thereafter, duly screened for absorption as MRCL and posted to ^{Biha} ~~Bihar~~ ~~Sumterpur~~ vide an order passed sometime in September, 1986. Some how, the orders were not communicated to him. He was not able to join at ~~Biha~~. Meanwhile, he was transferred from Orai to Chirgaon in the month of November, 1986. According to the applicant, he was transferred to Parauna, but the respondents do not admit it. Whatever it may be, the dispute ^{arose} ~~began~~ with effect from 24.11.1986. The applicant's grievance is that he was neither given duty-pass to go to Parauna nor made to work at Chirgaon. The contention of the respondents is that the applicant has absconded after 24.11.86. However, it remains a fact that the respondents have not taken any action so far against the applicant for his unauthorised absence. The applicant submits that he is entitled to be absorbed as MRCL (duly screened).

2. We have heard the learned counsel for the parties and perused the record. There is no manner of doubt that the

D.K. Agrawal

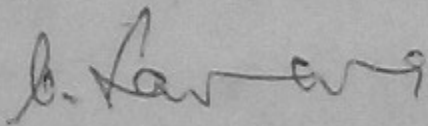
(17)
12

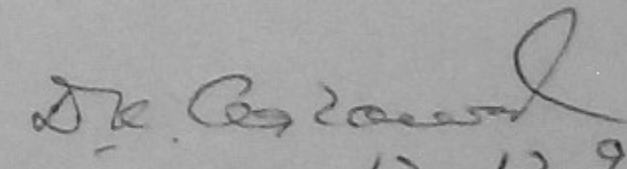
-: 2 :-

applicant was a Casual Labour and attained the status of MRCL. Therefore, ordinarily, there could be no reason for him to run away from the job. All the same, it may be mentioned that the applicant was suffering from a phobia that he was entitled to be appointed to a class III job to which recruitment can only be made under the rules, which provide for a process of selection. It also appears from the record that the applicant, instead of seeking redress through his immediate superiors, wanted to use political influence for his survival in the service. On the one hand we would like to discourage such a practice on the part of an employee, all the same we are of the opinion that he shall not be denied the rightful claim due to him.

3. In the facts and circumstances of the case, the applicant having served the Railway Administration for a period of about four years and having been already screened for the job of MRCL, we are of the opinion that he is entitled to be absorbed as a MRCL by the Railway Administration forthwith, without any loss of time. We also consider that in the peculiar circumstances of the case the applicant is although not entitled to back wages but his seniority shall be reckoned as if he was in service from the period 24.11.1986 to the date of reinstatement. The said seniority will be reckoned for his future promotion, if any, according to rules.

4. In the result, we ^{allow} ~~put~~ this claim petition in part and direct the Railway Administration to forthwith absorb the applicant as a MRCL without loss of seniority and without payment of back wages, without any loss of time, as soon as the applicant presents a certified copy of this order to the Divisional Railway Manager, Central Railway, Jhansi. There will be no order as to costs.


MEMBER (A).


MEMBER (J). 12.12.90

Dated: December 12, 1990.

PG.