

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

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Dated : This the 15th day of April 2002.

Original Application no. 445 of 1988.

Hon'ble Mr. Justice RRK Trivedi, VC
Hon'ble Maj Gen KK Srivastava, AM

Abuturab, S/o Syed Khairat Mohd.,
R/o Syed Hashim Raza, 329, Sultanpur Bhawa,
Gangaganj ~~Sam~~, Distt. Allahabad.

... Applicant

By Adv : Sri D.P. Singh

Versus

1. Union of India through Ministry of Railways,
(Railway Board) New Delhi.
2. The General Manager, N. Rly., Baroda House,
New Delhi.
3. The Divisional Railway Manager, N. Rly.,
Allahabad.
4. Senior Divisional Personnel Officer, N. Rly.,
Allahabad.
5. Senior Divisional Engineer, N. Rly.,
Allahabad.

... Respondents

By Adv : Sri P Mathur

ORDER

Hon'ble Mr. Justice RRK Trivedi, VC.

By this OA filed under section 19 of A.T. Act, 1985, the applicant has prayed for a direction to respondents to re-engage the applicant against class IV post of Handicapped Quota with all benefits. He has also prayed for a direction to respondents to comply w.

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their decision communicated by letters dated 20.5.1986 (Ann A13), 28.1.1987 (Ann A15) and 19.2.1987 (Ann A16)

2. ^{Pro 445 of 1988} This OA was allowed by this Tribunal vide order dated 27.3.1992. The direction was given as under :-

"Accordingly the Respondents are directed to give appointment to the applicant, in case no person who are said to be casual labour senior to the applicant is listed in the waiting list. However, the appointment shall be given to the applicant as and when the vacancy arises in preference to the new comer or the one who has not worked as casual labour to the extent that the applicant has worked. No order as to cost."

In pursuance to this order, ~~various~~ order was passed for appointment of the applicant, as would be seen from letter dated 20.5.1986 (Ann A 13) which says that the applicant should report in Etawah Office for his appointment. The applicant, on 30.6.1986 gave an application to the Senior Divisional Engineer for giving appointment in reference to letter dated 20.5.1986. On 28.1.1987, a letter was written to Senior Divisional Personnel Officer to consider the case of the applicant under Handicapped quota. This letter also mentions the ^{order} ~~letters~~ dated 20.5.1986 and 8.9.1986 which were passed for giving him appointment. The applicant then was asked by letter dated 19.2.1987 to get himself registered with the Employment Exchange as handicapped candidate. He complied with this direction also. However, the appointment was ^{not} given. The handicapped certificate filed by the applicant shows that he suffers from 50% of the physical ^{disability} ~~capacity~~. The certificate has been filed as annexure 18. ^{When} ~~The~~ applicant was not given appointment, he filed ^{review application} ~~this~~ OA which was allowed as stated ^{above} ~~above~~.

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3. As the direction was not to appoint him ⁹⁸⁰ ~~under~~ handicapped candidate, he filed review application no. 54/8/94 which was allowed by order dated 1.2.2000 with the following direction :-

"In the light of these facts, we find that grave injustice could be caused to the applicant, in case the order passed in OA 445 of 1988 is not recalled. The order passed in OA 445 of 1988 is recalled. Learned counsel for the respondents in OA 445 of 1988, Sri P. Mathur, who is the counsel for the respondents in this review also, is allowed six weeks time to file CA to the OA. With these the review application is allowed."

Thus this matter has come before us. In pursuance of the aforesaid order, CA has been filed. In para 8 of the CA, the respondents have admitted that the applicant had worked against periodical sanction in the following manner:

14.9.75	to	14.12.75	120 days
14.1.76	to	14.12.76	365 days
14.1.77	to	14.12.77	340 days
14.1.78	to	14.12.78	356 days
14.1.79	to	14.7.79	192 days
14.9.79	to	14.11.79	71 days

Total	1444 days
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Thus from the aforesaid it appears that the applicant had continuously worked for 5 years for more than 120 days and he has acquired temporary status.

4. The respondents considering his total working days ie 1444 days, issued the order of appointment in his favour, but he was not given appointment on technical ground that it should be done under handicapped quota. Though the respondents have taken work for such a long time without their being any objection that he is suffering from physical infirmity. The applicant was running from


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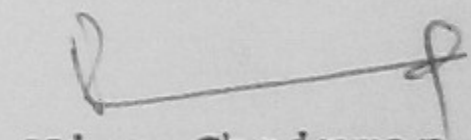
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pillar to post as already stated above. In these circumstances, we are of the view that the applicant is entitled for relief. Sri P. Mathur mildly raised the objection of limitation, submitting that the applicant worked only upto 1979 and thereafter, he was not allowed to work. We are not impressed by this plea as material available on record fully establishes that the claim of the applicant was being considered by the authorities and the appointment orders were actually issued in his favour, but for one or other reasons he was not allowed to join. When he did not succeed before the authorities he filed OA in 1988. In the circumstances it is difficult to say that there was any delay.

5. For the reasons stated above, the respondents are directed to consider the claim of the applicant for appointment on the basis of appointment order already issued on 28.1.1987 (Ann 15). The orders shall be complied with within 3 months from the date of communication of this order.

6. There shall be no order as to costs.


Member A


Vice-Chairman

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