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OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Dated : Allahabad this the 13.10.1985.

Original Application No. 579 of 1988

1. Kunwar Pal Singh, son of late Sri Laik Singh, R/o. Quarter No. E-141/C, Station Colony, Roza Jn. District Shahjahanpur.
2. Heera Lal s/o. Sri Ram Deen, R/o. O. No. E-141/C, Station Colony, Roza Jn. District Shahjahanpur.
3. Heeramani Joshi, s/o. Sri Aditya Ram Joshi, O. No. E-141/C, Station Colony, Roza Jn. District Shahjahanpur.
4. Krishna Deo Lal s/o. Sri Shiva Saran Lal R/o. O. No. E-141/C, Station Colony, Roza Jn. Shahjahanpur
5. Krishna Pal S/o. Sri Shahjade, R/o. O. No. E-141/C, Station Colony, Shahjahanpur.. applicants.
(By Advocate Sri R.K. Verma & Sri A.K. Dixit)

Versus

1. General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Rail Manager, Northern Railway, Moradabad.
3. Administrator/Secretary, Railway Employees Co-operative Consumer's Store, Roza Junction, Northern Railway, District Shahjahanpur.
4. Union of India through Secretary to Department of Railways, Railway Ministry, New Delhi.

.....Respondents.

QUORUM :- Hon'ble Mr. S. Das Gupta, Member-A.
Hon'ble Mr. T. L. Verma, Member-J.

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O R D E R (Oral)

(By Hon. Mr. S. Das Gupta, Member-A)

Five applicants ⁱⁿ ~~in number~~ have filed this Original Application under Section 19 of the Administrative Tribunals Act, 1985, challenging the order dated 12.6.1987 by which the applicants have been informed that they were not eligible for being screened for regularisation of their services. The applicants have prayed for a direction to the respondents to consider them for screening on merit as was done in case of similarly placed employee namely Sri Ram Lakhan Pandey and to regularise them after such screening.

2. Briefly stated, facts of the case ~~are~~ that the applicants have worked as Casual Workers in Railway Employees Co-operative Consumers Store, Northern Railway from various dates. They have claimed that applicant No.1 was working from 12.2.1979, applicant ^{No 2} from 5.5.75, applicant No.3 from 5.3.79, applicant No.4 from 9.2.80 and applicant No.5 from 19.6.1982 and all of them have completed several hundred days of work. It has further been stated that by an order dated 31.8.1984 the applicants alongwith others were directed to appear for screening and they accordingly appeared ~~for~~ screening on 31.8.1984. However, this screening was postponed on that date and was re-fixed for 11.9.1984. On that date, the applicants alongwith others went for screening but they were not screened, while others including one Sri Ram Lakhan Pandey was considered. The applicants have been representing ^{to} the respondents repeatedly for being screened and finally the impugned

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order was passed, by which they were told that they were not eligible for screening.

3. The respondents have filed written reply in which it has been stated that none of the applicants had worked prior to 4.10.1978 which was the cut-off date for being considered for screening. It has been explained that only those casual workers who have ~~been~~ working prior to cut off date, i.e. prior to 4.10.1978 were eligible for screening and regularisation in accordance with instructions contained in the notification dated 17.10.1983 (Annexure-CA-1). As the applicants did not fulfil the eligibility condition, they were not screened.

4. The applicants have not enclosed any working certificate in support of their contention as regards the number of days worked. Normally, the ^{seniority} certificate of the casual labour~~s~~ for the purposes of re-engagement and also for regularisation is determined by number of days worked. It has nowhere been stated by the applicants that the other persons including Sri Ram Lakhan Pandey who were screened and regularised were junior to them. The learned counsel for the applicants argued that the Railway Board's letter dated 26.8.1987 by which instructions were issued regarding screening and regularisation of casual workers did not stipulate any cut off date and therefore, the applicants could not have been ineligible on the ground they had not worked prior to the crucial date. He also argued that at least one of the applicants i.e. applicant No.2

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had worked prior to crucial date and he should have been screened and regularised.

5. As we have already mentioned, the details of working by the applicants had not been given nor any working certificate has been enclosed in support of the contention in this regard. The respondents have specifically stated that none of the applicants had worked prior to the crucial date. We are unable to accept the argument of the learned counsel for the applicant that the local authorities could not have put ~~the~~ a crucial date for the purposes of screening as the Railway Board's circular did not mention any crucial date. The regularisation of casual worker can be against specific number of post and therefore, the number of persons screened can not be unlimited. It has to be limited with reference to number of vacancies to be filled and therefore, ^{by stipulating a} ~~putting~~ cutt off date can not vitiate the notification issued by the respondents in this regard.

6. The applicants would have had a justified cause of action in case they had contended and shown that persons junior to them have been screened and regularised. That not being the ^{Case} ~~dispute~~. The direction which has been sought by the applicants can not be granted.

7. The respondents have not denied that the applicants have been working as casual worker and they

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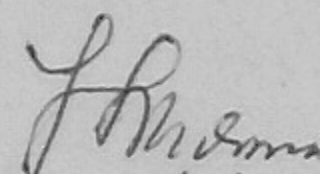
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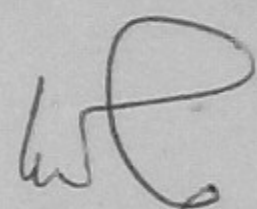
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have put in considerable number of days of work.

8. In view of this, the applicants are entitled to be considered for regularisation in their own turn.

9. In view of fore-going, we dispose of this application with a direction to the respondents to consider the applicants in accordance with law in their own turn for screening and regularisation of their services. The parties shall bear their own costs.


Member- (J)


Member- (A)

VKP/-