

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH

ALLAHABAD

Dated: This the 10th day of December 1996

CORAM : Hon'ble Mr. Justice B.C.Saksena VC
Hon'ble Mr. S. Das Gupta AM

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ORIGINAL APPLICATION NO. 88 OF 1988 }

Surendra Kumar son of Kaloo Ram,
R/O Rly quarter no. M/4-B,
Railway station, Haridwar,
District Saharanpur. - - - - - Applicant

C/A Sri Manoj Kumar

VERSUS

1. Union of India through Railway Manager,
Northern Railway, Baorda House,
New Delhi.

2. Divisional Engineer, Office of
the Divisional Railway Manager,
Northern Railway, Moradabad.

3. Divisional Railway Manager,
Northern Railway, Moradabad. - - - - Respondents

C/R

Sri A. K. Gaur

Bch

ORDER (ORAL)

By Hon'ble Mr. Justice B.C.Saksena VC

The applicant was initially appointed as casual labour under Inspector of Works, Chandausi. He claims that he has put in continuous service of 120 days. The respondents have filed counter affidavit. In para 3 of the counter affidavit, respondents have indicated that the applicant had not worked continuously from 1.4.1978 to 24.5.1979 as alleged by him. In fact the ~~the~~ ^{their} ~~their~~ case is that he had worked from 11.4.1978 to 7.7.1978 total 88 days and after a break of 6 days on his account. He was engaged on 14.7.1978 for 35 days after break of 7 days. He was again engaged on 25.8.1978 and worked upto 21.11.1978 for 30 days and remained ^{off} from duty for 10 days and returned to duty on 1.12.1978 and worked in broken period upto 24.5.1979. This averment is born out from the service record filed alongwith the counter affidavit.

2. The claim of the applicant that he has worked continuously for 120 days is clearly belied from the categorcial averments made in the counter affidavit. In para 2003 of Indian Railway Establishment Manual, Volume II, it has been specified, which period shall be treated as absent from duty and shall not be considered as break in service for the purpose of determining 120 days on continuous employmenent. The respondents in their counter affidavit have clearly stated that earlier break of 6 days was through applicant's own account. Subsequently after reengagement, the applicant again remained off from duty for 10 days. In the absence of categorical pleadings on the part of the applicant to indicate that the break which the respondents has shown

B.C.S.

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in the counter affidavit are ~~tenable~~ ^{Condnable} in view of the provision of para 2003 of Indian Railway Establishment Manual Vol. II, the pleadings are wholly..... It is, therefore, difficult for us to come to the conclusion that the applicant has proved that he has worked continuously for 120 days.

3. The Learned Counsel for the applicant has laid emphasis on the letter dated 14.7.1987 in which the respondents had intimated to the applicant that his name is entered in the casual labour register and as and when any vacancy arises, he would be called for and re-engaged. The learned counsel for the applicant submitted this without any pleadings on that observation that considerable number of years have elapsed and still the applicant has not been called for and re-engaged. In such a situation, we can only provide that as and when work becomes available, respondents will give preference to the applicant for his re-engagement vis-a-vis other casual labours who have rendered lesser number of days in service than the applicant in the same Seniority Unit.

4. With the above observations, the O. A. is dismissed. cost is easy.

AM

B. Chakravarthy
VC

SOI