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(9)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
.ALLAHABAD.

Dated : Allahabad February, 26, 1996.

CORAM : Hon. Mr. S. Das Gupta, Member-A
Hon. Mr. T. L. Verma, Member-J

ORIGINAL APPLICATION NO. 907 of 1988

Nizamuddin son of Sri Iqbal Ahamad,
P.W.I. Northern Railway Hapur,
R/o. Qr. No. 17F Railway Colony, Hapur,
.....Applicant.

(BY ADVOCATE SHRI G. S. BHATT)

Versus

1. Union of India through the Secretary, Ministry of
Railway, New Delhi.
2. Divisional Manager, Northern Railway, Moradabad.
3. P.W.I. Northern Railway, Hapur.

..... Respondents.

(BY ADVOCATE SHRI A. V. SRIVASTAVA)

O R D E R (Oral)

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

This application was filed seeking a direction to the respondents to engage the applicant in service with all consequential benefits thereof and set aside the order dated 30.11.1988/1.12.1988 passed by the respondent No.2.

2. The applicant has claimed that he worked as Casual Labour from 15.12.1979 for 62 days. Thereafter he worked in different spells totalling 152 days of work and he was dis-engaged on 2.11.1983. The applicant

claims that he thereafter submitted several representations but, to~~o~~ no effect. His grievance is that his dis-engagement was illegal as he had attained temporary status after having worked for 152 days and therefore, he could not have been dis-engaged without being given a proper opportunity. He has also alleged that the respondents wanted ^{him} to ~~take~~ ^{in him} bribe for re-engagement and when he has failed to do so, his case was not considered. He has further stated that the casual labourers who were engaged in 1980 are still working and some of them have been regularised ~~have~~ and have been given the regular scale of pay.

3. The respondents have filed a counter-affidavit in which they have admitted that the applicant worked for more than 62 days continuously in 1979 and thereafter again he worked for 30 days with effect from 15.5.83 to 14.6.83. Lat~~er~~ he worked for only two days under I.O.W. Hapur i.e. on 1.11.1983 and 2.11.1983. Thereafter he did not attend duties since 3.11.1983 and remained absent. They have denied the allegation of demand of bribe made from the applicant. The respondents have also taken a plea that the application is barred by limitation as the cause of action has arisen in 1983.

4. The period of working of the applicant is not in dispute. It is the case of the respondents that the applicant had left working voluntarily after 2.11.1983 whereas this has been denied by the applicant in his rejoinder-affidavit, in which he has stated that in these hard days no one will leave a job of his own. He has also annexed a copy of an order dated 30.11.1988 /1.12.1988 to the amendment application. This order appears to be issued on behalf of the Divisional Railway Manager in reply

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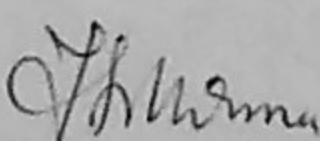
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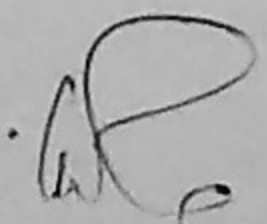
to applicant's representation ~~condition~~ for re-engagement. This letter does not indicate the date of the representation to which it is replied. We cannot, therefore, assume that it was in reply to a delayed representation as would not give any cause of action to the applicant. In the absence of any date of representation in the said order we have to assume that it is in reply to representation which was made in time. This therefore, does not give fresh cause of action and in that view ~~also~~, this application, which was filed on 28.7.1988 is well within the period of limitation.

5. ~~So far~~ ^{As} the question of circumstances under which the applicant's services were dis-engaged, on 2.11.83 there is a dispute on fact. The respondents would have ^{believe} ~~taken a plea~~ that the applicant left the job of his own accord whereas this has been controverted by the applicant in his rejoinder-affidavit. In view of the fact that ~~the~~ ^{as} the applicant had put in certain period of work under the respondents both prior to and after 1.1.1981, the name of the applicant should have been entered in the Life Casual Labour Register in accordance with the Railway Board's Circular and thereafter he should have been considered for re-engagement in his own turn.

6. In view of the foregoing we direct the respondents to enter the name of the applicant, if not already done, in the Life Casual Labour Register and also to re-engage him in his own turn.

7. The application is disposed of with the above direction. No order as to costs.


(Member-J)


(Member-A)

Dt. Allahabad Feb. 26, 1996.