

(12/4)

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.1013 of 1988

Mukesh Kumar Srivastava Applicant

Versus

General Manager, Northern Railway,
New Delhi & Others Opposite Parties.

Hon'ble Justice K.Nath, V.C.

Hon. K.J. Raman, A.M.

(By Hon. Justice K.Nath, V.C.)

This application under Section 19 of the Administrative Tribunals Act XIII of 1985 seeks a declaration that the applicant is a temporary class IV employee of Railway Administration with effect from 27.4.87 with claim for arrears of pay and benefits of physically handicapped persons etc.

2. It appears that the applicant was working as a Casual Labourer in the Railways since 6.12.74 with several broken periods, the last of which commenced on 1.10.1985 and continued unbroken upto 27.4.87. Thereafter he was subjected to a medical examination and was found medically unfit. In consequence, he was ceased from work.

3. On 17.7.87 the applicant made a representation, Annexure-A5 to the Opposite Parties for employment in class IV service of the Railways claiming benefit of reserved quota for handicapped persons. This representation was replied by the opposite parties' letter dated 12.8.87, Annexure-A6 mentioning that the applications of handicapped persons could be considered only if they were sponsored either by the Employment Exchange or by District Rehabilitation Centre and the applicant's name should be sponsored accordingly. That is why the applicant has filed this application.

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4. Shri Prashant Mathur appearing on behalf of the opposite parties has filed a Counter Affidavit and also raised preliminary objection that the applicant has not availed of departmental remedy. The learned counsel for the applicant says that the representation which the applicant has made on 17.7.87 only, sought departmental remedy.

5. Having heard the learned counsel for the parties, we are of the opinion that the mere impediment of the applicant's failure to obtain sponsorship through Employment Exchange or District Rehabilitation Centre, should not stand in the way of the Railway Administration considering the applicant's case for appointment if he is found otherwise eligible and fit. The instructions, ^{if} ~~of~~ any, of the Govt. on the subject are not before us, and therefore we would not like to express any opinion whether such instructions could be mandatory or directory. But in case the applicant is a handicapped person, in support of which he has filed a medical certificate dated 12.11.82 of the Chief Medical Officer, Shahjahanpur, Annexure-A2 and copy of Employment Exchange Card dated 8.7.87, Annexure-A4, mentioning that the fingers of both ^{his} ~~the~~ feet were curved, it would be a case of a person belonging to the weaker sections of the Society which has been a concern of the principles of the Constitution of India and of the policy of ^{the} ~~a~~ Government. We, therefore, consider ^{it} ~~the~~ just and fair to require the opposite parties to consider the applicant.

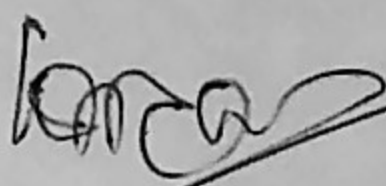
6. For reasons indicated above, we ~~therefore~~ direct the opposite parties to consider the representation dated 17.7.87, Annexure-A5 and pass suitable orders in the matter of giving an employment or otherwise to the applicant as a handicapped person

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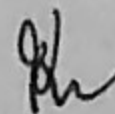
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and to give such other relief as ^{they} may deem fit in the
light of the applicable rules. The opposite parties will
comply ^{with} the orders within three months from the date of
receipt of the order, ^{to} which the applicant shall also be
at liberty to do. Parties shall bear their costs.



Member (A)



Vice Chairman

Dated the 8th Aug., 1989.

RKM