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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD

ALLAHABAD : This the 26th Day of August , 1996

ORIGINAL APPLICATION NO. 1074 OF 1988

Hon'ble Dr R.K. Saxena, J.M.

Hon'ble Mr S. Dayal, A.M.

Ashok son of Sri Chandan Lal,
C/o Divisional Railway Manager,
Central Railways, Jhansi - Applicant
(C/A Sri V.K. Barman)

Versus

1. Union of India through
General Manager, Central Railway,
Bombay
2. The Divisional Railway Manager,
Central Railway, Jhansi
3. A.E.M. (T.T.), Central Railway,
Jhansi - Respondents
(C/R Sri A.V. Srivastava)

JUDGEMENT

Hon'ble Dr R.K. Saxena, JM

This O.A. has been filed for seeking relief in the nature of mandamus commanding the Respondents to provide suitable work in category ' B-II ' to the applicant. Another relief sought is that the Respondents should not insist on fresh medical examination of the applicant.

2. The brief facts of the case are that the applicant was working as a monthly rated casual labour under the Respondents since 2.4.82. He was medically examined and was not found fit for category A-3 but was found fit for category ⁴B-2. He had already served under the respondents for more than 240 days and obtained temporary status under the Rules. He was, however, not given any job, Hence this O.A.

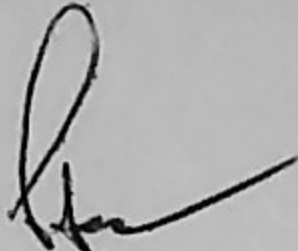
3. The Respondents contested the case on several grounds. It is averred that the applicant was taken back on duty with effect from 2.3.87 under the Chief Forman (TTE), Manmad. He was then sent for medical examination and being found fit only for B-2 category, the applicant was re-engaged with effect from 2.3.87 in Track Machine Organisation as casual Khalasi. It is further averred that since there was no alternative post of B-2 category available at Manmad, he was discharged from the service on 19.3.87, after paying three months wages. According to the Respondents, the applicant was directed to contact the Divisional Engineer, Bhusawal' East (E), Bhusawal, but the applicant failed to go there.

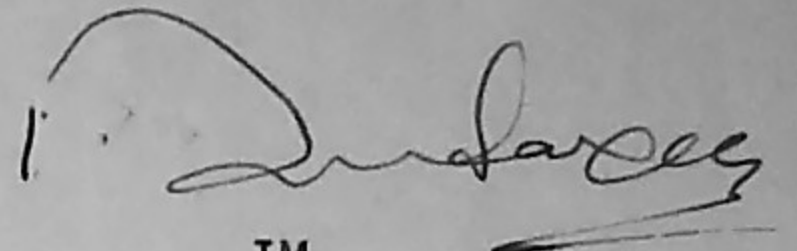
4. During the arguments of the case Counsel for Respondent was directed to give the information about the vacancy of B-2 category as on 31.12.1995. He now takes the plea that at present there does not exist any vacancy. In view of the fact that this Tribunal while deciding the O.A. No. 293 of 1986 held that the termination of the applicant was illegal and he would be deemed to continue in service. ^{Best 2} and after he was found unsuitable for the post of Category A-3, he was discharged. The reason assigned was that no vacancy of B-2 for which he was found suitable, was available. The direction of the Tribunal was not to frustrate the result of the O.A. We, therefore, direct that no doubt the applicant did not go to Bhusawal ^{he} be given an opportunity to be absorbed

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on the suitable post for which he is found medically fit. If necessary, the Respondents may ask the applicant to undergo the fresh medical test.

5. The compliance of this direction be made within a period of six months ^{from the date of receipt of copy of the order} and the applicant be informed accordingly. The O.A. is disposed of with the above directions. No order as to cost.


AM


JM

RJ