

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Original Application no.
Transfer Application no.

300/1990

Date of Decision 14.11.96

Sohan Lal

Petitioner

Sri O.P. Mehta, Sri A. Kumar Advocate for the
Petitioner

VERSUS

Union of India & others Respondents.

Sri D.C. Saxena

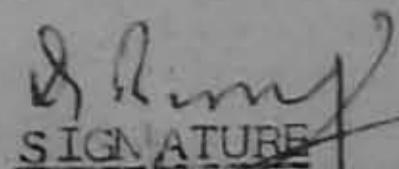
Advocate for the
Respondents.

C O R A M

Hon'ble Dr. R.K. Saxena JM

Hon'ble Mr. D.S. Balya AM

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordship wish to see the fair copy of the judgement ?
4. Whether to be circulated to all Bench ?


SIGNATURE

PIYUSH/

CENTRAL ADMINISTRATIVE TRIBUNAL
ALIAHABAD BENCH
ALIAHABAD.

Allahabad this the 14/16 day of November 1996.

Original application No. 300 of 1990.

Hon'ble Dr. R.K. Saxena, JM
Hon'ble Mr. D.S. Baweja, AM

Sohan Lal, S/o Sri prahlad,
Ex-casual Waterman, R/o Mohalla
141, Naya Purwa Colony, Dist.
Allahabad.

..... Applicant.

C/A Sri G.P. Madan
Sri A. Kumar

Versus

1. Union of India, through the General Manager, Northern Railway, Barauda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Allahabad.
3. Divisional Personnel Officer, Northern Railway, Allahabad.
4. Secretary(Establishment) Railway Board, Rail Bhawan, New Delhi.

..... Respondents.

C/R Sri D.C. Saxena

ORDER

Hon'ble Mr. D.S. Baweja, AM

Through this application a prayer has been made for quashing the panel dated 3.2.90 and to direct the respondents to conduct fresh screening considering the name of the applicant with the eligible candidates having

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worked prior to 1.8.78 for empanelment against the Group D vacancies.

2. The applicant has stated that he was appointed as a Casual Hot Weather Waterman under Station Master, Dadri, Allahabad Division, Northern Railway from 15.4.1976 to 28.4.1976 and thereafter under Station Master Ajaiyapur from 1.5.1976 to 28.9.76 and thus worked for a total period of 164 days. When the applicant came to know that fresh faces were being engaged as casual labour after 1.1.1981, he made a representation dated 20.4.88 for his reengagement. Vide representation dated 11.12.88, he also requested for engagement for Kumbh Mela 1988-89 but no action was taken. Allahabad Division vide letter dated 29.6.88 Annexure-A-5 asked for the particulars of such casual labour/waterman of Commercial and Traffic Departments who had completed 120 days prior to 1.8.78 for screening against the Group D vacancies. The applicant applied on 31.7.88 with reference to this letter to consider his name for screening as the applicant met with screening criteria laid down. The list of the casual staff to be screened was notified vide letter dated 23.12.88, but the applicant's name did not feature in the same. The applicant vide letter dated 3/7.2.89 represented against the same but there was no response. The panel was declared on 3.2.90 which included the names of Hot Weather Waterman who had not worked prior to 1.8.78. He again made a representation dated 4.3.90 but did not get any reply. Being aggrieved, this application had been filed on 23.3.90 impugning the panel dated 3.2.90.

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3. The main contentions of the applicant is seeking the reliefs detailed above ^{one} ~~as~~ :-

(a) Applicant though eligible as per the norms laid down has been ignored for screening without giving any reasons.

(b) The panel includes those persons who had been engaged after 1.8.78 without the prior personal approval of the General Manager.

4. The respondents have resisted the application by filing the counter affidavit. It is contended that the alleged working details of the applicant were got verified by the team of Inspectors at Dadri and Ajaibpur Railway Stations. On enquiry it was revealed that the applicant's name does not find place in the records of having been engaged at these stations. The report of the Inspectors is placed at CA-I & II. The applicant has therefore played a fraud by producing a fake certificate of his working as casual Hot Weather Waterman. It is admitted that the applicant's representations dated 3.1.89 and 14/17.1.89 had been received but in view of the position indicated above, he had no claim and no reply was given. It is further submitted that the panel has been formed following the extant instructions with the approval of General Manager and there is no infirmity or illegality in the screening procedure. The applicant's relief of quashing the panel dated 3.2.90 affects the claim of 19 candidates. These 19 candidates are not only proper but in fact are necessary parties. The applicant has however failed to implead them. The application is not maintainable on this account also. The applicant is therefore not entitled

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for getting any ^{of the} reliefs and the application deserves to be quashed.

4. The applicant has filed rejoinder to the counter affidavit denying the contentions of the respondents and reiterating the facts detailed in application.

5. The learned counsel for the applicant had been seeking adjournment on several dates. Vide order dated 3.7.96, it was directed that no further adjournment would be allowed on the next date. The counsel for applicant however again made a prayer for adjournment on 22.7.96 and the matter was adjourned to 23.7.96. The counsel for the applicant was again not present on this date, We therefore proceeded to hear the case without the counsel for the applicant and heard the learned counsel for the respondents. We have also carefully gone into the material placed on record.

6. From the averments detailed above, it is noted that the applicant claims that he was engaged as casual Hot Weather Waterman on 15.4.76 and worked for 164 days, ^{Abstain from} {at Dadri Station} from 15.4.76 to 28.4.76 and 1.5.76 to 29.9.76. While on the other hand the respondents controvert this stating that the applicant was not at all engaged at the stations and periods indicated by him. The respondents have supported their submission by filing the investigation report of the committee of the Inspectors nominated for the purpose at CA-I & II of the counter affidavit wherein the claim of the applicant for engagement was

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verified from the records of the stations under reference. The applicant had based his claim of working as Hot Weather Waterman on the certificate issued by the Station Masters and brought on record at Annexure-A-2. With regard to the investigation by the committee of the inspectors, the applicant in the rejoinder has challenged the findings of the committee pointing out that the verification of the records has been done for the period of 1984^{only} and therefore while the applicant had been engaged during 1976. Keeping in view these rival contentions on the either side after ^{consideration of the} careful averments and the documents brought on record, we are inclined to accept the version of the respondents on account of the following reasons:-

(a) The working certificate at Annexure-A-2 for both the stations is dated 22.4.79. It is not clear ^{as to} how the certificate was issued by both the Station Masters on the same date. This makes the authenticity of the certificate doubtful.

(b) The respondents have alleged that the certificate of working at Annexure-A-2 is a fake document as emerged after verification of the records by the committee of the Inspectors. The applicant while refuting this in the rejoinder has only mentioned that committee had not seen the records properly of the relevant period but has not made any averment with regard to establishing the authenticity of the certificate. The applicant has not disclosed as to who were the incumbants of the post of Station Master who issued the certificate at Annexure-A-2. The original of these certificates has also not been produced for verification.

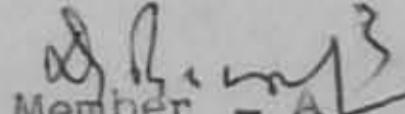
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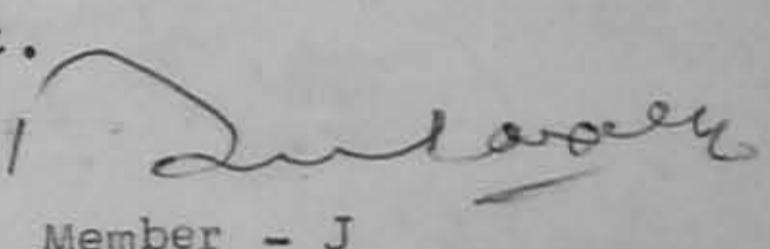
(c) The applicant in para 4 of the application has stated that when he came to know that new faces were being engaged after 1.1.81, he represented for engagement vide application dated 20.4.88. This implies that the applicant from 30.9.76 onwards has been keeping quiet and became active only in 1988. If he was engaged and worked as claimed, he would have certainly kept agitating the matter for engagement being old face.

7. Since we have accepted above, the version of the respondents that the applicant had not been engaged at all, the question of going into merit of reliefs prayed for does not arise.

8. Respondents have also raised the plea that application is not maintainable as the employees in the impugned panel dated 3.2.90 which is prayed for quashing have not been impleaded. These employees are necessary party as their interest will be affected. We are in agreement with this submission of the respondents and on this account alone, the application is not maintainable.

9. In view of the above facts, the application has no merit and is also not maintainable and the same is dismissed with no order as to cost.


Member - A


Member - J

Arvind.