

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Dated: The 16th of May 1995

Original Application No: 1620 of 1992

1. Rajan Bhai Patel, aged about 40 years,
S/O Mool Chandra Patel, R/O Purani Bazar,
Dhussa Ka Maidan, Post Karvi,
District Banda.
2. Ramesh Chandra, aged about 36 years,
S/O Kunj Bihari Raikwar, R/O Gandhiganj,
Post Karvi, District Banda.
3. Chunna Lal, aged about 30 years,
S/O Ram Lal, R/O Pyare Lal Colony,
Baldau Bazar, Post Karvi,
District Banda.
4. Balay Prasad, S/O Badri Prasad,
aged about 31 years, R/O Karvi,
District Banda.

..... Applicants.

By Advocate Shri O.P.Gupta,

Versus

1. Senior D.C.S. Central Railway,
D.R.M. Office Jhansi.
2. Divisional Railway Manager,
Central Railway Jhansi.
3. Union of India through General Manager,
Central Railway, Bombay.

..... Respondents.

By Advocate Shri V.K.Goel.

* * * *

C O R A M

Hon'ble Mr. S.Das Gupta, Member-A
Hon'ble Mr. T.L.Verma, Member-J

O R D E R

By Hon'ble Mr. T.L.Verma, Member-J

Contd....2/-

::2::

This application under Section 19 of the Administrative Tribunal's Act has been filed for issuing a direction to the respondents to give employment to the applicants as and when work is available in the department and also to consider them for regularisation as Class IV employees in accordance with their seniority and also that the respondents be directed to maintain the seniority of the applicants in the department and to publish the same.

2. The case of the applicant in short is that they were working as monthly rated casual labour/waterman under the control of Respondent No. 1. They claimed to have acquired temporary status after putting in 120 days continuous service. They have been medically examined and declared fit for category B-1 and C-1. Applicant No. 1 claims to have worked continuously w.e.f. 1.4.70 to 1.4.91, applicant No. 2 is stated to have worked from 31.7.77 to 22.7.91, applicant No. 3 from 12.6.77 to 22.7.91 and applicant No. 4 from 1.4.1979 to 22.7.1995 vide Annexure A-1 to Annexures A-8. The departmental instructions are that the seasonal labourers/Hot Whether Waterman should be engaged on the basis of divisional seniority. By order dated 13.4.92 (Annexure A-9) ADRM/T sanctioned 57 posts for appointment on the basis of divisional seniority. Appointments against the 57 posts of Hot Whether Waterman sanctioned by ADRM/T were made by order dated 16.4.93 (Annexure A-10). The grievance of the applicants

::3::

is that the respondents have made appointments on the said posts of new faces in preference to the applicants who have been screened and found fit for the job. Before filing this case, the applicants submitted representations (Annexures A-11, A-12, A-13 and A-14) to the concerned Authorities protesting appointments of new faces in preference to them. The respondents, it is stated, had not taken cognizance of the representations filed by the applicants. Hence, this application challenging the order appointing new faces in preference to the applicants on the ground of arbitrariness.

3. The respondents have contested the claim of the applicants. It is not in dispute that the applicants after putting in more than 120 days as Casual Labour (Waterman) were medically examined and given temporary status. The seniority of the Hot Whether Waterman has been prepared and annexed as Annexure R-1 to the written reply of the respondents. From the perusal of the seniority list, it would appear that applicants are at Sl. No. 57, 130, 34, 52 respectively. The case of the respondents is that from the list of Casual Labourers (Hot Whether Waterman) only 25 persons have been employed and the remaining 36 posts have gone to the widows of Railway employees, who died in harness, on compassionate ground. The learned counsel for the applicant has argued that

: : 4 : :

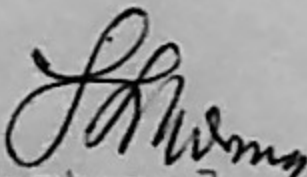
since the 57 posts were sanctioned for appointment of Hot Whether Waterman, appointment of the widows of the Railway servants on compassionate basis on the aforesaid post was illegal and without jurisdiction. We are unable to agree with this contention of the learned counsel for the applicants. As per the instructions issued by the Railway Board, the dependants of the Railway servants who died in harness and fulfil the eligibility conditions can be given appointment on Group 'D' or Group 'C' posts. The basic purpose of giving compassionate appointment is to mitigate the hardship due to the death of the bread earner in the family. The spirit of the instructions, however, is that wards of the deceased Railway Government servants who deserve compassionate appointment should be given appointment on regular posts so that regular source of income is provided to them. Appointment on seasonal vacancies does not appear to be consistent with the policy of the Railways for providing compassionate appointment. Be that as it may, we cannot hold the appointment of the widows on seasonal vacancies as illegal or without jurisdiction.


4. The matter however, would have been different had the applicants succeeded in showing that persons junior to the applicants in the seniority list have been appointed in preference to them. In that case, the applicants could have legitimately, challenged the appointment of juniors as being discriminatory and arbitrary. The learned

::5::

counsel for the applicants admitted in course of argument that persons junior to the applicants in the seniority list have not been so far appointed/regularised. Nevertheless, we see no difficulty in issuing the innocuous directions as prayed for by the applicants.

5. In view of the above, we dispose of this application with a direction to the respondents to give ~~him~~ employment to the applicants as and when work performed by the applicants is available in the department and also to consider them for regularisation/absorption on Class IV posts as per their seniority. There will be no order as to costs.


Member-J


Member-A

/jw/