

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

O.A. No. 1698 of 1992

Date of decision: *5th April*
1995.

Hon'ble Mr. K. Muthukumar, Member 'A'
Hon'ble J.S. Dhaliwal, Member 'J'

Shri Udit Narain
R/o B-85, Railway Police,
Line Colony,
Post Leader Road,
Allahabad.

...Applicant

By Advocate Shri P.K. Kashyap

Versus

1. Union of India through
General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Allahabad.
3. Catering Manager,
Northern Railway,
Allahabad.
4. Divisional Catering Superintendent,
Northern Railway,
Allahabad. ...Respondents

By Advocate Shri Narain Gaur

JUDGMENT

Mr. K. Muthukumar, Member 'A'

The applicant was a casual labourer Khalasi in the Catering Unit of Allahabad Division of the Northern Railway and he worked for the period from 23.07.1973. He was in the CPC scale of Rs.196-232/- till September, 1980. He was sent for a medical examination on the basis of which, he was declared fit in C-I category but was certified that he should not be given the work of handling food stuff. In view of this, the applicant was discharged from duty. The applicant's grievance is that in terms of the

provisions of ~~para~~ Section 1305 of the Indian Railway Establishment Manual (hereinafter referred to as 'IREM'), he is entitled to an alternative appointment which, he alleges that the respondents have denied to him, while on the other hand, the respondents have continued his juniors who are working in the Catering Unit and have also been absorbed. The applicant, therefore, has prayed that the respondents should be directed to appoint the applicant on a regular Class-IV vacancy in the ~~decategorised~~ category in C-I and has also claimed the benefits of back wages.

2. The respondents have admitted that the applicant was working as ^acasual Khalasi in the Catering Unit in the CPC scale but due to his medical disqualification for his working in the canteen, he could not be continued and, therefore, an alternative job could not be given to him as there was no permanent/temporary vacancy in the Catering Unit and, therefore, his name was entered in the Live Casual Labour Register and his case was referred to the Senior Divisional Personnel Officer, Allahabad for necessary screening as and when vacancy arises for an alternative job. It has also been averred by the respondents that Para 1305 of the IREM is not applicable in the case of the applicant.

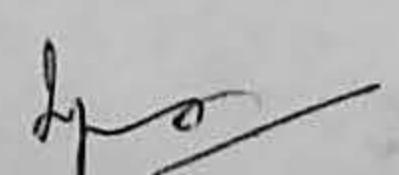
3. We have heard the learned counsel for the parties and have perused the records.

4. It is an admitted fact that the applicant has been working as a casual labourer from 1973 till his medical decategorization in 1982. The respondents have nowhere denied that the applicant is not entitled for consideration for temporary status nor is he disqualified for absorption in regular Group 'D' employment. Under Paragraph 1305 of the IREM, all medically decategorised staff are being absorbed in

such alternative posts which should broadly be in allied categories where their background and experience under in the earlier posts could be utilised, but such medical decategorisation, alternative employment is available to permanent Railway servants and such of those employees who fall under the two groups of Railway servants under paragraph 1302 of the IREM. Admittedly, although the applicant has been working in the Catering Unit as a casual labourer, he has not been accorded temporary status, therefore, he has not so far and, acquired any vested right for being considered for an alternative employment under the terms of the relevant provisions of IREM. It is, however, seen that the respondents have not specifically denied that the applicant is not eligible for consideration of temporary status under the relevant provisions of the IREM. In view of this, we find it will suffice if we direct the respondents to consider the applicant for temporary status and if he has already been considered as a temporary employee, he should be considered for alternative employment in any other suitable category of employment. Paragraph 1305 of the IREM does not specifically provide that such alternative employment should be only in the same Unit and, therefore, it should be possible for the Railway Administration to find an alternative appointment of the category to which he 'the applicant' has been medically declared fit. We direct accordingly.

5. The application is disposed of with the above directions. No order as to costs.


J.S. DHALIWAL
MEMBER 'J'


K. MUTHUKUMAR
MEMBER 'A'