

Open Court

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: This the 21st Day of January 2000

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

Hon'ble Mr. Rafic Uddin, J.M.

Original Application 1847 of 1992.

Ashok Kumar Gupta,
son of Sri Narayan Das Gupta,
resident of 74/14 Sarvodaya Nagar,
Allahabad,

. . . Applicant.

(Through Sri N.L. Srivastava, Adv. and
Sri D.K. Agarwal, Adv.)

Versus

1. Union of India
through Ministry of Railway,
2. Divisional Railway Manager,
Northern Railway, Allahabad.
3. Additional Divisional Manager (Irst)
Northern Railway, Allahabad.
4. Station Superintendent,
Northern Railway, Allahabad.

. . . Respondents.

(Through Sri K.D. Pandey, Adv.)

Order (Open Court)

(By Hon'ble Mr. S. Dayal, Member (A.)

This application has been filed for issuance of direction to the respondents to give an appointment letter to the applicant in the post of Category C-2 (Office Peon) from month to month.

2. The applicant has stated in his application that he was engaged as casual labour on 10.1.77 to 1989 from time to time and had worked for 698 days.

The respondents prepared a penal of 387 persons on 15.2.90 and placed the applicant at serial no. 16 in the penal, and the persons were directed to appear before Medical Officer, Northern Railway for medical test in Category A-2. The applicant was found unfit along with eight others. The respondents directed the applicant to appear before medical officer for medical test in category C-2.

In the report of the Medical Officer dated 21.8.90 the applicant claims that those who were found fit in category C-2 were entitled to get appointment to the post of Office Peon. Despite this, the respondents have not issued appointment letter to him. The applicant claims that he had attained temporary status and therefore the respondents were duty bound to issue appointment letter as Office Peon to him.

3. The written statement filed by the respondents raises objection against the application on the ground of limitation. Besides, the respondents have also stated that the applicant was declared to have failed in Medical examination in category A-2, A-3, B-1, B-2 and C-1 and has been declared fit only in Category C-2. There was no post of category C-2 in Transport and Commercial Branch for which the applicant had been empanelled.

4. As regards the issue of limitation raised by the respondents in their counter reply, the applicant was not found medically fit in category A-2 on 21.8.90. The Original Application has been filed by the applicant on 31.12.92. Thus there is a gap of over two years for stating the facts that the applicant had not qualified in categories other than C-2 it was quite natural for him to

have waited for consideration of his case as and when vacancy arose in C-2 category and therefore, the question of limitation would not come in the way, of considering the relief prayed for by the applicant.

5. As regards the contention of the respondents that there was no post in Transportation and Commercial Branch for medical category C-2, the applicant has annexed a list of posts in Commercial and Transportation Departments which came in C-2 category. It is likely that vacancy was not available at the time the applicant was empanelled. However, since the applicant's name was included in the panel, the respondents should have appointed him as and when vacancy for which C-2 category was adequate arose.

6. We, therefore, direct the respondents to consider the applicant for any future vacancy of C-2 category in Transportation and Commercial Departments or in any other department ^{in the division} where he can be accommodated as the applicant has made his way into panel after working for a long period as casual labour. There shall be no order as to costs.

D. A. T. Muddam
Member (J.).

Asw
Member (A.)

Nafees.