

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (ALLAHABAD BENCH) ALLAHABAD

O.A. NO. 307/92

With Connected O.A. 309/92

Date of decision, 28.4.93

Chanchayam Das Petitioner

Sri. R. K. Negi Advocate for the petitioner.

..... Vs
..... Union of India Respondents.

..... Sri. V. K. Croel Advocates for the Respondent(s)

CORAM-

The Hon'ble Mr. Justice U. C. Srivastava, VC

The Hon'ble Mr. V. K. Seth, Member(A)

1. whether reporters of local papers may be allowed to see
the judgment?

2. To be referred to the Reporter or not? ✓

3. whether their Lordships wish to see the fair copy of the judgment?

4. Whether to be circulated to all other Benches? ✓

✓
Signature

Ramesh

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 307 of 1992

Ghanshyam Das

.... Applicant

Versus

Union of India and Ors

.... Respondents

Connected with

Original Application No.309 of 1992

Om Prakash

.... Applicant

Versus

Union of India and Ors.

.... Respondents

CORAM:

Hon. Mr. Justice U.C. Srivastava, V.C.

Hon. Mr. V.K. Seth, Member(A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

Feeling aggrieved ~~by~~ the non regularisation the applicant started the service at Jhansi as a monthly rated casual labour(Parcel Porter) has approached this Tribunal praying that a time be issued to the respondents ~~to~~ bound direction/to declare the applicant as permanent and duly absorbed in class IV category in Railway in the grade of Rs.750-940 and also to give him consequential benefits. This prayer has ^{been} made making the allegation that various other persons ~~even~~ even junior to him have been regularised or have been made permanent but the applicant has been discriminated. He joined the railways in 1976 and attained temporary status on 7.9.77 for which a communication

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was given to him vide letter dated 31.8.88. Earlier he was removed from service which order was challenged and the High Court allowed the said petition and quashed the termination order vide judgement and order dated 3.12.82 but even after the judgement of the High Court, the applicant was not taken back in service and the matter was taken ~~back~~ before the Supreme Court where the SLP was dismissed and directions were given by the Supreme Court on 11.3.85. Even then the matter was being delayed and delayed and the applicant was making representations and subsequently it was on 7.10.85 he was reinstated in service and thereafter he moved an application for payment of wages for which he also filed an application before the authority under payment of wages Act which was allowed and the compensation was also awarded vide order dated 10.3.87. It was an ex parte order and the restoration application against the same was dismissed. Both the orders were again challenged before the High court but the order passed by the Prescribed Authority was maintained by the High court vide its judgement dated 19.4.89. Thereafter an application was filed u/s 19 of the Administrative Tribunals Act before this Tribunal by the respondents in which earlier an interim order was granted and later on it was vacated and thereafter the respondents realised the money claimed by the applicant and which was so awarded to him.

2. The applicant who was thus litigating with the railway administration was not considered for screening though other persons are considered for

screening and after screening notices were issued. Notices were issued to the persons and the test ~~had~~ taken place on 17.4.87 and the notice of which was allegedly received by the applicant too late thereafter and that is why he could not be screened.

3. The respondents have resisted the claim of the applicant ~~and~~ the pleading interalia that the notices were sent to the applicant in due time but it has not been stated that ~~in fact~~ a notice was served and the applicant avoided it, it may be that the applicant has been aware of the examination, but so long as the notices were not served upon him he could not be treated for non appearing in the examination. But so long as the notices were not served upon the applicant, he cannot be claimed for non appearing in the examination. Under the circumstances the averment made by the applicant has got to be accepted that he received the notice after the date of screening. Accordingly the applicant was also entitled to screening.

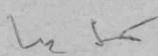
4. A common question arises in both these applications. In O.A. No. 309/92 the facts of this case are also somewhat similar. He was also appointed as a monthly rated casual labour and in the year 1976 and he got temporary status on 12.8.77 like the applicant of the earlier case. His case is that his services ^{were} also terminated and ^{he} went to litigation upto Supreme Court and ultimately he was reinstated and restored back in service and got the payment and the matter also came before this Tribunal against the order passed by the Payment of Wages Act and after

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vacation of the interim order he also got the payment. The notice which was sent to him was received by ^{him} two days after the due date and that is why he could not appear in the screening. According to the respondents the notices were sent in time and in fact it was received by him within the time and the statement made by the applicant is not correct, ~~and as such~~ it has got to be accepted that the applicant did not receive the notice in time. ~~and unless~~

5. Accordingly, the respondents are directed to fix a supplementary test for the applicant ~~being~~ within a period of two months from the date of communication of this order and reinstate him. ~~In case~~ ⁱⁿ the screening ~~was~~ ^{he is} successful, ^{should} he also be absorbed, regularised like similarly placed other persons with effect from the date ~~as~~ they have been regularised and absorbed, though notionally but actually within a period of two months after holding of the examination. Both these cases are disposed of with the directions given in O.A. 307/92 with no order as to costs.


Member (A)


Vice Chairman

Dated: 28.4.1993

(Uv)