

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

Allahabad: Dated this the 31 day of ^{July} June 1996

ORIGINAL APPLICATION NO.576 OF 1992

Hon'ble Mr. S. Das Gupta. A.M.

CORAM : Hon'ble Mr. T. L. Verma. J.M.

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1. Brij Raj s/o Inder Deo
2. Sheo Prasad s/o Mukhram
3. Ghurahoo s/o Basant Sharma
all resident of village Khanpur,
Mathia Post Khaja Khurd,
District Mau.
4. Ram Nagina s/o Ram Autar
r/o Chitupur, Tahsil Sadar,
District Varanasi.
5. Krishana Kausal s/o Ram Adhar,
r/o Chhittpur, Tahsil Sadar,
District Varanasi.

----- Applicants

C/A Sri Ajmal Khan

Sri S.C. Budhwar.

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1. Union of India through Secretary,
Ministry of Railway, Rail Bhawan,
New Delhi.

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2. Divisional Railway Manager,
Northern Railway Divisional Office
Hazratgunj, Northern Railway,
Lucknow.

3. Divisional Personnel Officer,
Northern Railway, Hazratgunj,
Lucknow.

4. Coaching Depot Officer,
Northern Railway, Varanasi.

5. General Manager, Northern Railway,
Baroda House, New Delhi.

----- Respondents

C/R Sri A. K. Gaur.

ORDER

By Hon'ble Mr. T.L.Verma J.M.

This application under section 19 of the Administrative Tribunals Act 1985 has been filed for quashing the order passed by the respondent no.2 as contained in annexure-A and for issuing direction to the respondents to enter the names of the applicants in the Casual Labour register and reengage them according to the availability of vacancies.

2. The case of the applicants is that they were engaged as casual labour under Coaching Depot Office Northern Railway, Varanasi in the year 1977 during Kumbh Mela and though each of them worked for 25 days during that period. Thereafter the applicants approached the respondent no.4 from time to time for their re-engagement, but they were, not engaged. Applicants

thereafter, submitted applications to the respondent no.4, which were forwarded by him to the respondent no.2. The further case of the applicant is that on 21.10.1983 a seniority list of 103 casual labour under respondent no.4 was issued, in which names of the applicants 1 & 2 figures at serial no.100 and 102. As the names of the applicants 3 and 5 were not included in the said list (annexure C), they submitted representations for inclusion of their names in the list on the basis of number of working days, verified by the office of the respondents no.3. Respondents issued a corrigendum thereafter, and included the names of the applicants 3 and 5 at serials in between 104 to 110. It is said that casual labours at serial nos.98 to 101 of the said list have been re-engaged in the year 1989 by respondent no.2. Applicants, thereafter approached the respondent no.2 for their engagement also, but they have not been reengaged so far. Railway Board issued letter no.E(N9)11/78/CL/2 dated 4.3.1987, directing the Divisional Railway Manager to maintain Live Casual labour register, in which names of all those casual labours, who have worked for some period should be incorporated. Another letter was issued on 21.10.1987, containing instruction for maintaining Live Casual labour register and supplementary casual labour register in respect of those who have been retrenched and were not re-engaged. Respondents have issued a list of 83 casual labours, who had worked in the Carriage and Wagon department. Copy of the list was circulated to all Coaching depot officers to engage casual labours from the said list. Names of the applicant did not figures in the said list (annexure E). The

applicants thereafter, moved the respondents no.2 through their Union for interpolation in the list dated 11.3.1991. The matter was discussed by the Union in 106 P.N.M. The matter was again raised in the formal meeting with the respondents no.2 on 22.4.1991, in which the respondent asked the Union to submit applications of casual labours, who did not figure in the list dated 11.3.1991. The Union submitted the names of the applicants, ~~in~~ pursuant to made the deliberations in the said informal meeting, by letter (annexure 1). Despite furnishing the required information by the Union, names of the applicants have not been included in the list of casual labours prepared on 11.3.1991. Hence this application for the reliefs mentioned above.

3. The respondents have contested the claims of the applicants. In the written reply filed on behalf of the respondents, it has been stated that the matter having been raised after a lapse of 15 years it was not possible to verify the claims of the applicants that they had worked for 25 days in the year 1977 in Kumbh Mela, as the documents have been destroyed according to the rules. Respondents's further case is that the seniority list (annexure C) filed with the ~~applicant is~~ ~~petition was~~ not the genuine document because ~~of that~~ none of persons mentioned in annexure C are working as casual labours under the Chief Train Examiner, Varanasi. It has further been contended that Raghuram and Prabhunath said to have reengaged in the year 1989 were regularised in the year 1989 itself after they acquired temporary status on completing 120 days.

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4. We have heard the learned counsels for the parties and perused the records.

5. The applicants have filed annexures B 1, B2, B3, B4 and B5 in proof of their having worked for 25 days in Kumbh Mela in the year 1977 as casual labours. The respondents have not verified the working of the applicants as claimed by the applicants as the relevant records were destroyed. As the respondents have not effectively denied the said claim of the applicants, we have no difficulty in holding that ~~each of~~ the applicant~~s~~ had worked for 25 days ~~even~~ as casual ~~as~~ labours in the year 1977. In this connection, we may like to mention that the Railway Board issued instructions on 4.3.1987, advising the railway authorities to provide an opportunity for submission of applications by casual labours, who were engaged on open lines and who were retrenched for want of work before 1.1.1981 and were not engaged thereafter.

6. Applications were to be filed before 31.3.1987. We have no material before us except annexure B-6 to show that the applicants had ever represented to the respondents for their reengagement. Annexure B series are the applications filed by the applicants to the Chief Train Examiner, N.E.Railway Varanasi for their re-engagement. These applications were filed some time in June/July 1982. Admittedly no action was taken on these applications.

7. We have nothing before us to show that the applicants had submitted applications in response to the notification issued by the Railway Board on

4.3.1987. The Railway Board issued further instruction by letter dated 21.10.1988 regarding maintenance of ~~Live~~ casual labour register. In this letter instructions were issued regarding the manner in which the applications received were to be verified. After verification was completed, names of such applicants whose claim as retrenched casual labour were found to be genuine were to be entered into a separate list in the respective seniority Unit and they may be borne on a supplementary live casual labour register. Their engagement was to be considered only if the list of persons already born on the live casual labour register in the respective seniority Unit was existed and there was need for engagement of casual labours in that seniority Unit.

8. Inview of the instruction issued by the Railway Board in the year 1987 for giving opportunity to those casual labours, who were engaged prior to 1.1.1987 and were retrenched for non availability of work, but were re-engaged thereafter, the applicants were under ~~the~~ ^{not} obligation to put forward their claims before the stipulated date i.e 31.3.1987. Their names could have been entered in ~~the~~ the supplementary list only after their claims were found to be genuine. There is not a chit of paper to show that the applicants ^{ever} ~~have~~ staked their claim for being included in the Supplementary live casual labour register in terms of Railway Board's letter dated 4.3.1987 and that their claim was examined and ~~were~~ ^{was} found to be genuine, yet their names were not included in the supplementary live casual labour register. The applicants could have invoked the

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jurisdiction of this Tribunal for grant of the relief claimed only on proving ~~of~~ the above facts. The applicants have failed miserably to show that they had complied with the directions of the railway Board as contained in the instruction issued vide letter dated 4.3.1987. They cannot, after a lapse of such a long time be permitted to raise up the ^{matter} ~~claim~~, which has become stale ~~lapse of time~~.

9. In the result, this application is dismissed, leaving the parties to bear their own cost.

J. M.

A. M.,

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