

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 715 of 1992

Ansar Ahmad Siddiqui ::::::: Applicant

Versus

Union of India
and Others ::::::: Respondents

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

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

This application has been filed under Section 19 of the Administrative Tribunals Act, 1985 praying for the relief that the total working days of the applicants i.e. 373 days be taken for the purpose of seniority taking the division as a whole as unit and entitling him for appointment as Safaiwala alongwith six others appointed pursuant to the circular letter dated 15.11.1990 (Annexure A-5), treating him senior to those who are at sl.no 4,5 and 6 of such appointees. The petitioner has also prayed that having completed more than 120 days of service he should be granted temporary status.

2. Brief facts of this case are that the applicant has worked in various establishment of the Railways in different spells, the total number of working days being 373 days, counting the days of working in various establishments. The respondent no.2 vide his letter dated 16.7.1991(Annexure A-4) passed an order that incase the applicant was brought from one depot

to another due to Administrative reason his number of days of working can be added up subject to verification of number of days worked. The petitioner contends that on the basis of this ~~order~~ his seniority should have been reckoned on the basis of his total number of days worked i.e. 373 days. However, when the respondents filled the posts of Safaiwala circulated by letter dated 15.11.90 (Annexure A-5), 3 Casual Workers having 322 days, 315 days and 311 days respectively to their credit were appointed ignoring the claim of the applicant though he should have ranked senior to them by virtue of his 373 days working. In an additional prayer the applicant has contended that since he had completed 120 days of employment and the breaks in the employment are to be ignored in terms of clause(d) of para 2003 of Indian Railway Establishment Manual, he should be granted temporary status.

3. The facts in this case are not in dispute. In Counter-reply filed by the respondents it has been stated that the total number of working days of the applicant in the depot in which the vacancy of Safaiwala were filled in 113 days only, the remaining working being in different places. The respondents contends that on account of this he has been assigned the seniority position of 21 and he will be given appointment when his turn comes in accordance with his position in the seniority list. The respondents have not specifically denied the claim of the applicant for being granted temporary status.

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

5. We are unable to accept the contention of the respondents that the applicant's seniority in the depot should be fixed on the basis of number of days he worked in that depot only. Admittedly, the respondent no.2 had clarified that incase the applicant was moved from one depot to another on administrative ground, the working days in all the depot should be added. It is not the case of the respondents that the reason why the applicant worked in different establishments is other than administrative in nature. In view of this we find no reason why the applicant's seniority shall be assigned on the basis of his working days in one particular establishment alone. Since the total number of working days taken together is not in dispute, his seniority must be fixed on the basis of his having worked for the total number of 373 days. In this view of the matter he definitely ranked senior to sl.no.4,5 and 6 of the appointees to the post of Safaiwala in January, 1991 pursuant to letter dated 15.11.1990 (Annexure A-5). The applicant has therefore clearly been superseded without any valid reason therefor.

6. As regards his claim of having completed 120 days with breaks condonable in terms of clause (d) of para 2033 of Indian Railway Establishment Manual, there is no specific denial by the respondents. In view of this, the applicant is also clearly entitled to be granted temporary status.

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7. In view of the foregoing, the petition is allowed. The respondents shall appoint the applicant against a post of Safaiwala or any other equivalent post within a period of three months from the date of communication of this order. Once appointed, his seniority shall count w.e.f. 20.1.1991 i.e. the date on which six Casual workers were appointed as Safaiwala pursuant to the letter dated 15.11.1990 (Annexure A-5). He shall not be entitled to get any backwages. The respondents are also directed to grant temporary status to the applicant w.e.f. the date from which he is entitled to be granted temporary status as per rules.

8. The application is disposed of with the above directions without any order as to costs.

J. K. Hemam

Member (J)

Allahabad, Dated 4 ^{April} ₆, 1994

/M.M./

W. R.

Member (A)