

Open Court.

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 06th Day of April 2000.

Coram:

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

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

Original Application No. 770 of 1992.

1. Hira Mani son of late Dubari, resident of village - Jaraila, P.O. Zigna, Distt. Mirzapur.
2. Ahmad son of Khalil resident of village Chitauli P.O. Zigna, Distt. Mirzapur.
3. Brij Mohan, son of Sri Suddhoo, resident of village Dehra Kalan, P.O. Dehra Kalan, Distt. Ghazipur.
4. Ram Sajwan son of Sri Buddhoo, resident of village Farwati Ka Pura, P.O. Kusaha, District Mirzapur.

All temporary Railway employees working as Hot Seasonal/ Casual Watermen under station Superintendent, N.Rly. Kanpur.

. . . Applicants.

Counsel for the Applicants: Sri Anand Kumar, Adv.

Versus

1. Union of India through General Manager, Northern Railway, Baroda House, New Delhi.
2. Divisional Railway Manager, Northern Railway, Allahabad.
3. Senior Divisional Commercial Superintendent, Northern Railway, Allahabad.
4. Divisional Personal Officer, Northern Railway, Allahabad.

. . . Respondents.

Counsel for the respondents: Sri A.K. Pandey, Adv.

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Order (Open Court)

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

This application has been filed for seeking direction to the respondents to include all the applicants in panel dated 3.2.90 and to place them in the said panel over the names of the persons who were appointed later than the applicants.

Direction has also been sought to the respondents to absorb the applicants against the existing vacancies in Group D post in Traffic and Commercial Department of Allahabad Division.

2. The facts mentioned by the applicants are that the applicants were appointed as casual gangman/ Khalasi under the respondent No.2. They claimed to have obtained temporary status after working more than 120 days. They were retrenched from service without any notice of compensation and were re-engaged as casual waterman ^{in the} ~~in~~ Summer ^{of} ~~of~~ 1985. The applicants claimed to have continued to work upto 14.8.91. Copies of casual labour card annexed by the applicants show that applicant No.1 had worked 361 days in broken spells from 7.4.74 to 27.3.77 and had worked during Summer season in 1985, 86, 87 88, 89, 90 and 1991. The applicant No.2 had similarly worked for 123 days in 1977 and then worked for sometime in 1985 including Summer as Waterman and thereafter upto 1991 in Summer to each year. Applicant No.3 had worked for 26 days in 1977, 31 days in 1978, 61 days in 1981, 5 days in 1984 and had thereafter worked during the Summer of 85, 86, 87 and 1988. Applicant

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No. 4 had worked for 90 days in 1978, 42 days in 1985 and 116 days in 1986. The applicants claim to have appeared for screening done for Group D posts of Commercial and Traffic Department in Allahabad Division in 1989. The panel was declared on 3.2.90 containing 394 names. It was also mentioned that some more names were to be included but inclusion of any more names was not done. The applicants mentioned that the panel was not prepared on the basis of seniority from the date of appointment but on the basis of total number of working days in Commercial Department as casual waterman. The applicants claim to have been discriminated against some juniors i.e. persons appointed later were included in the panel while the applicants were left out.

3. The respondents have filed their counter reply and have given the details of the work done by the applicants in the counter reply. They have shown the work of the applicants only from 1984 or 1985 onwards upto the years 1991.

3. We have considered the pleadings on record. We do not find the practice adopted of considering the seniority of the applicant on the basis of days worked for those who were not in service at the time they were considered for selection or who were given post of seasonal nature. However, the applicants by virtue of their service with the Indian Railways are entitled to be included in Live Register for casual labour and offered work of casual nature as and when opportunity arises and be

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considered for absorption against Group D vacancies when their turn comes. It does not come out from the counter reply filed by the respondents that this was done.

4. We therefore direct the respondents to include the name of the applicants in the Live Register for Casual Labour within three months from the date of receipt of the copy of this order and consider the applicants for casual work as and when opportunity arises and also for absorption in Group D vacancies in their turn. No order as to costs.

J. Zafar
Member (J.)

A. Hashmi
Member (A.)

Nafees.