

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 19th day of March 2001.

Original Application no. 1089 of 1992.

Hon'ble Mr. Rafiq Uddin, Member-J

Hon'ble Mr. Gen K.K. Srivastava, Member-A

Lal Chand,

S/o Sri Suraj Prasad,

R/o 26/8-A-22 Karbala Chakia,

ALLAHABAD.

... Applicant

C/A Sri S. Dwevedi

Versus

1. Union of India,  
through the General Manager,  
N. Rly., Baroda House,  
NEW DELHI.

2. The Divisional Railway Manager,  
N. Rly., Nawab Yousuf Road,  
ALLAHABAD.

... Respondents.

C/Rs. Sri A. S. Halekar

...2/-

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O R D E R(Oral)

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

By means of this OA the applicant has sought direction to the respondents to treat him as permanent Gangman w.e.f. 10.06.77 and count his services from the said date. The applicant also seeks direction to the respondents to grant him consequential benefits.

2. The applicants claims that he was appointed on the post of Gangman in the Engineering Branch of N. Rly., in the year 1977 against loyal quota being son of loyal employee. According to the applicant his appointment <sup>was</sup> ~~w.e.f.~~ made on substantive post and against clear vacancy under PWI Churk and was also confirmed on the said post. The applicant was subsequently transferred to Allahabad on 23.05.79 and was posted under PWI, Allahabad, where he resumed his duty as permanent Gangman w.e.f. 23.05.79. The applicant was on medical leave w.e.f. 09.10.79 to 03.12.1979, when he went to resume his duty under PWI, Allahabad, he was not permitted to resume his duty without any valid reason. The applicant then approached the higher authorities against this illegal action of PWI, Allahabad and a result of which he was allowed to work on the post of Gangman w.e.f. 06.06.80. However, the respondents instead of treating him as permanent Gangman, started treating him as casual Gangman and after completion of 120 days he was

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given C.P.C. Scale and since then he has been continuing as Gangman under PWI, Allahabad and he has not been treated as permanent Gangman. The applicant submitted his representations to the Divisional Engineer, N. Rly., Allahabad for treating him permanent Gangman w.e.f. 10.06.77, but no order has been passed. Hence, he has filed this O.A.

3. The case of the respondents as disclosed in their counter affidavit is that the applicant was unauthorisedly absent from duty w.e.f. 09.10.79 to 07.12.1979 and accordingly his services were terminated. However, after due consideration the applicant was given duty as fresh candidate from 06.06.80 as casual Gangman and he was given C.P.C. scale and no vacancy was available for promotion to the permanent Gangman, hence, he is still working as C.P.C. It is further stated that since the applicant accepted the order of termination <sup>did</sup> and not challenged it at the relevant time, he cannot ~~be~~ claim for regularisation against permanent post of Gangman w.e.f. 10.06.77 and his present OA is highly time barred.

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

5. It is an admitted case of the applicant that he was not permitted to resume the duty after 03.12.79 and he resumed the duty as casual Gangman w.e.f. 06.06.80. The applicant was also given C.P.C. scale after his completion of 120 days. The applicant did not challenge.

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the alleged order of termination or against the refusal of PWI, Allahabad in the year 1979. He has challenged the action of the respondents not engaging in the year 1992 which is obviously time barred and we do not consider it legal to consider his claim at this belated stage for regularisation or termination of services in the year 1979. It is no doubt correct that no documents have been filed by the parties regarding refusal by the PWI to <sup>act of</sup> ~~permit~~ the applicant to join the duty or so called termination order passed in the year 1979, But facts remain that the claim ~~xx~~ is time barred and we do not consider it appropriate to consider the merit of the case.

6. We, however, find that the applicant has been working as casual Gangman w.e.f. 06.06.80. He has also been given C.P.C. scale. The applicant has been continuously working for last more than 20 years and his services do not appear to have been regularised as per statement of the applicant. Considering the facts that the applicant was admittedly appointed ~~xx~~ on regular vacancy in the year 1977 and he was again appointed on ad-hoc basis in the year 1980, We consider it appropriate to issue direction to the respondents to consider the case of the applicant for regularisation of his services on the basis of service rendered by him as casual Gangman under C.P.C. scale. We accordingly

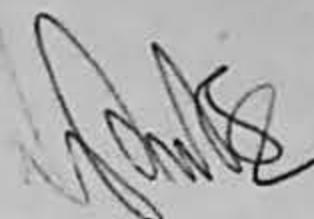
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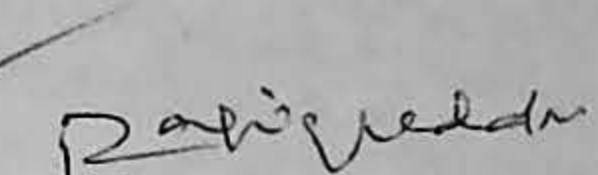
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while rejecting the claim of the applicant for regularisation w.e.f. 10.06.77, we direct the respondents to consider the case of the applicant for regularisation on the post of Gangman and pass appropriate, / suitable order within a period of 3 months from the date of communication of this order.

7. No order as to costs.

  
Member-A

  
Member-J

/pc/