

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALIABAD

Dated: This the 26th day of November, 1996

Hon'ble Mr. S. Das Gupta AM

CORAM :

Hon'ble Mr. T. L. Verma JM

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ORIGINAL APPLICATION NO. 1247/92

C/A Sri R. C. Gupta

VERSUS

1. Union of India through Secretary,

Ministry of Railways,

Rail Bhawan, New Delhi.

2. Divisional Railway Manager (Engg)(P),

Central Railway, Jhansi Division,

Jhansi.....

Jhansi.....Respondents

C/R Sri Amit Sthalkar.

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ORDER

By Hon'ble Mr. T. I. Verma JM

This application under section 19 of the Administrative Tribunals Act, 1985 has been filed for issue of a direction to the respondents to regularise the services of the applicant to which he is entitled and he be paid emoluments thereof with effect from 18.7.1986. He has sought further direction to the respondents to take the applicant in service with immediate effect and provide him work of khalasi and pay him salary for the post of M.R.C.L. khalasi with effect from 18.7.1986.

2. The case of the applicant as made out in the C. A. is that he was permitted to work as khalasi (casual labour) in Track Machine Depot at Butibori railway station under the Nagpur division of the Central Railway in the year 1985. He worked as such till 18.7.1986. Thereafter, he was referred for medical examination. The Medical Board found him medically fit for appointment as M.R.C.L. Khalasi. The respondents, it is alleged, despite his being found medically fit, ^{and} ~~had~~ not given him the benefit of M.R.C.L. scale. He, therefore, submitted representation on 30.5.1986 and 24.6.1986(annexure A-5&A-6) respectively to the concerned authorities to give him benefit of M.R.C.L. scale. The respondents, instead of giving him the benefit of M.R.C.L. scale, stopped taking work from him even as casual labour. The further case of the applicant is that when he contacted the concerned authorities in connection with his dis-engagement and denial of M.R.C.L. scale, he was orally informed that his case is under consideration before the General Manager

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It has also been averred that the respondents informed the applicant that authorities have accepted his claim and that he will be allowed to work as M.R.C.L.Khalasi shortly, but nothing has been done sofar despite the above assurances. Hence this application for the reliefs mentioned above.

2. The respondents have contested the claim of the applicant. In the C.A. filed on their behalf, it has been stated that the applicant was recruited as casual labour on 27.2.1985 by the Foreman Buriboti in Project work. It has further been stated that he was provided work on the basis of casual labour service purported to card/haver been issued by the Inspector of Works, Mahoba on 15.5.1975. It has also been stated that on completion of six months service, the applicant was sent for medical examination for A-3 medical category on 4.10.1985. It has also been admitted that the applicant was found to be medically fit for the said category. However, before issuing formal order granting him M.R.C.L. scale, the casual labour card submitted by the applicant was sent to the Assistant Engineer, Mahoba for verification. The Assistant Engineer by its letter dated 11.7.1986 informed that the service card of the applicant was a fake one and that the same had not been issued by the Inspector of Works, Mahoba. This fact, was brought to the notice of the applicant. The further case of the respondents is that the applicant on coming to know of the aforesaid fact, left the service of his own with effect from 20.7.86. He has, therefore, no cause of action for filing this application which is barred by limitation.

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

5. The cause of action, if any, had arisen on 20.7.1986 when the respondents are alleged to have stopped to take work from the applicant. This application, admittedly, has been filed in 1992, about 6 years after the cause of action arose. The applicant has failed to give any explanation much less reasonable explanation for the delay in filing this application. This application, therefore, is prima-facie barred by limitation.

6. In addition to the above, on merit also, the applicant has failed to make out a case of arbitrary termination of his services. The respondents have filed photocopy of the application, submitted by the applicant on 17.6.1987 in proof of their case that the applicant left the service with effect from 17.6.1987 voluntarily. The learned counsel for the applicant admitted that the application dated 17.6.1987 was submitted by the applicant. All that has been disputed is the date of application. According to the applicant, the date of application is sometimes in 1986. We have perused this application. The English rendering of the application is submitted by him as follows :-

' I am submitting ~~this~~ this application for ~~obtaining my~~ service card. For certain reasons, I am giving up ~~his~~ service. Therefore, I request you to issue service card, giving details of the period of ~~service~~ my so that the same may serve my purpose in future. I am leaving the service voluntarily. I have no manner of grievance. '

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7. A plain reading of the contents of the application submitted by the applicant extracted makes it absolutely clear that he had left the service of the respondents voluntarily. The learned counsel for the applicant submits that though the applicant had submitted the above application to the respondents, but he did not leave service and remained there till he was arbitrarily refused work. We have no material before us to support the above contention of the applicant. The contents of the application extracted above tend to support the case of the respondents that the applicant had obtained engagement with the respondents on the basis of labour card, which was subsequently found to be fake and that the applicant voluntarily left the service, when he came to know of the said fact. We are, therefore, inclined to accept the contention of the respondents that the applicant relinquished his service on his own.

8. In the facts and circumstances of the case discussed above, we are satisfied that the applicant had left the service of the respondents on 20.7.88 voluntarily. Therefore, the contention of the applicant that his services were terminated arbitrarily cannot be accepted.

9. The learned counsel for the applicant has also filed photostat copy of the judgements and orders passed by a bench of this Tribunal in O.A.No.233/91 decided on 22.5.1996 and the order dated 26.10.1996 passed in O.A.No.1218 of 1992 in support of his case. We have perused both the judgments carefully and we find that the facts of the case under consideration are altogether

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different from the facts of the cases relied upon by the applicant. Therefore, these decisions are of no consequence ⁱⁿ so far as the case of the applicant is concerned.

10. For the reasons stated above, we find no merit in this application and therefore, dismiss the same, leaving the parties to bear their own costs.

J. H. Morris
J. M.

W. R.
A. M.

SOI