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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

DATED: THIS THE 18TH DAY OF OCTOBER, 1996

HON'BLE MR. S. DAS GUPTA A.M.

CORAM : HON'BLE MR. T. L. VERMA J.M.

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ORIGINAL APPLICATION NO. 1256/92

Dinesh Kumar son of Shyam Lal,
R/O Sabri Chungi (Near Bhainsa Godown,)
Mirzapur (U.P.)- - - - - Applicant

C/A Sri Rakesh Verma

VERSUS

1. Union of India through
Secretary, Ministry of Railways,
Govt. of India, New Delhi.
2. Divisional Railway Manager,
Northern Railway,
Allahabad.
3. Carriage & Wagon Supdt.,
Northern Railway,
Allahabad.. . . . Respondents

C/R Sri P. Mathur

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ORDER (O.R.A.L)

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

The applicant states that he was appointed as casual safaiwala and had worked from time to time till 10.3.1988 for almost 1200 days. On 10.3.1988, he was medically examined by the railway doctor for B-1 category and he was found unfit. He was directed to come for fresh medical check up within three months after getting medical treatment. The applicant has annexed the relevant copy of the medical memo dated 19.3.1988 as annexure no.1 to the application by which he was directed to appear before the railway doctor for medical examination for examining his fitness for appointment for B-1 category. The applicant, thereafter went to the Moti Lal Nehru Medical College, Allahabad and got him ^{self} treated.

2. Subsequently after treatment, he was certified fit to resume duty. Medical certificates granted by the Moti Lal Nehru Medical College are at annexure no. 3 and 4 to the O.A. The applicant thereafter approached the railway authorities for being allowed to resume duty, but despite repeated representations, the applicant has not so far been engaged. He has approached this Tribunal, seeking relief of appointment as Safaiwala on permanent basis from 1984 and also allowances ~~(B-1 B-2)~~ due to him with effect from 19.3.1988.

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3. The respondents did not file any C.A. despite repeated opportunities afforded. In view of this the averments made by the applicant are not controverted. It is settled law that if the facts averred do make out a case for relief and such facts are not controverted by filing C.A., the relief can be granted. In this connection, a reference is made to the decision of Hon'ble Supreme court in the case of C.S. Rowjee Vs State of Andhra Pradesh AIR 1964 SC 692.

4. We have noted from the averments that the applicant was referred for medical examination to determine his medical fitness and was found unfit for B-1 category. Subsequently he received treatment from Moti Lal Nehru Medical College and there are certificates to the effect that the applicant was fit to resume duties. There is no denial of the fact that the applicant had worked 1200 days as Safaiwala. In this circumstances we consider it appropriate that a direction be issued to the railways and we do direct them accordingly that the applicant be subjected to a fresh medical test by the competent railway doctor and on the basis of the result of medical examination, he may be considered for a re-engagement on the post of Safaiwala or any other suitable post in group 'D'. In case, he is re-engaged, he shall be considered for regularisation in his own turn.

5. Parties shall bear their own costs.

J.M.
J.M.

A.M.
A.M.

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