

Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABA D.

Allahabad this the 11th day of August 1998.

Original Application no. 1297 of 1993.

Hon'ble Mr. S. Dayal, Administrative Member
Hon'ble Mr. S.K. Agrawal, Judicial Member

Vijay Prakash Yadav, S/o Shri Ram Naresh Yadav,
R/o village Noon Khar Makunahi, District Deoria.

... Applicant.

C/A Shri S.N. Tripathi

Versus

1. Union of India, through General Manager, N.E. Railway Gorakhpur.
2. Divisional Railway Manager Sonapur Division, N.E. Rly., Sonapur.
3. Chief Commercial Manager, N.E. Rly., Gorakhpur.

... Respondents.

C/R Shri J.N. Singh.

ORDER

Hon'ble Mr. S. Dayal, Member-A.

In this application under section 19 of the Administrative Tribunals Act, 1985, the applicant has sought following reliefs:-

- i. a direction to the respondents to set aside order dated 03.09.92.

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- ii. a direction to the respondents to re-instate the applicant with all consequential benefits including arrears of salary.
- iii. a direction to the respondents to give cost of this application to the applicant.

2. The case of the applicant that he worked as casual labour from 09.01.77 to 07.02.77 at Bhatni, Railway Station, from December 1980 to June 1981 and 30.08.81 to 28.10.81 in Sonapur Division and again from 05.11.82 to 11.01.89 in carriage department of Barauni Junction as carriage khalasi. The applicant appeared in screening test on 24.03.88 and also for medical examination on 12.01.89. He was found fit in C-I category and was placed at Sl. no. 30 in the test. He claims to have been appointed as waiting-room bearer at Baruni junction on 01.09.89 and remained on that post till 22.08.92. On 22.08.92 he was asked to report to Head Office of Sonapur Division and reported there, but has not been given job nor salary. He claims that no order of termination has been passed nor has he allowed duty. In the light of these facts he has sought reliefs mentioned in the earlier paragraph.

3. Arguments of Shri S.N. Tripathi learned counsel for the applicant and Shri J.N. Singh learned counsel for the respondents have been heard. Pleadings on record have been taken into account.

4. The respondents have filed their counter affidavit in this case and they have mentioned in their C.A. that the applicant was subjected to screening test for substitute

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appointment after 1981. The screening committee had ~~him~~ ^{him} empaneled in the screening test of 1988 because his name was in the list of substitute appointment after 1981. The applicant was later on subjected to medical examination and was found unfit in category B-I, which is required for the post of Carnage Khalasi and was found fit for lower category of C-I. He was temporarily engaged as substitute waiting room bearer under Station Superintendent, Barauni on humanitarian ground. However, the vacancy on which he was working as substitute waiting room bearer was filled up by the candidate who had been found fit ~~as per order~~ in the screening test. The respondents have denied that the juniors of the applicant were retained while he was relieved. They have stated that the juniors Shri Babu Lal Mahto, Shri Shri Bindeshwari Singh, Shri Mohd. Suleman and Shri Vishnu Deo Shah etc were retained as substitute because they were declared fit in the medical examination of category B-I, which the applicant had failed.

5. The respondents have re-produced the order of Chief Personnel Officer, N.E. Railway, Gorakhpur on the representation of the applicant in his application dated 18.03.93 which was as under:-

"Shri Vijay Prakash Yadav has said that he had worked in Bhatni from 09.01.1977 to 08.02.1977. Its verification for this period may be done. If it is true, then there should be no interruption to conduct his screening test on the basis of list of first appointed substitutes before 01.01.1981. He may be called to appear in the screening test after after above verification.

He may be given opportunity to work as substitute

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in Commercial Branch Category - C-1, till vacancy is available."

The order passed in pursuance with the direction given by the the Chief Personnel Officer dated 01.09.89 (annexure 5 to the O.A.) mentions that the applicant was engaged as waiting room bearer on temporary basis. He was sent back to Divisional Head Quarter by letter dated 22.08.92 (Annexure 6 to the O.A.)^{It} mentions that the applicant was sent back to the Divisional Head Quarters because the vacancies on the post of waiting room bearer ~~were~~ no longer available. The applicant has mentioned in his representation that one Shri Gopal Pandit has been posted as waiting room bearer, The applicant has, however, ^{not}impleaded him as respondents in this case.

6. The respondents in their counter affidavit have referred to the fact that the applicant had been offered continuous ~~on~~ employment on casual basis, but he refused to accepts such employment . The annexures produced by the respondents in substantiation of this fact appear to be extracts from same file. There is no documents which was supplied to the applicant stating that he was not allowed to continue even on casual basis because he has refused to accept continuance of employment on casual basis. The applicant has mentioned in his O.A. that he continued to approach the respondents after termination of his appointment as waiting room bearer, but no work was offered to him.

7. In the light of above facts we direct the respondents to verify the services of the applicant and if


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he is found to have worked prior to 1981, his screening from the earlier date should be considered. In case he is found fit for the post on which he was working as casual labour due to his medical examination, he should be considered for temporary status on a regular post in C-I category. He should be engaged as casual labour within a month of receipt of the copy of this order. Other directions shall be complied with during a period of three months from the date of receipt of copy of this order.

8. There shall be no order as to costs.


Member-J 11/8/98


Member-A

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