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Reserved

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 4th day of July 1997.

Original Application no. 1850 of 1993.

Hon'ble Mr. T.L. Verma, Judicial Member
Hon'ble Mr. S. Dayal, Administrative Member

Amala, S/o Chanchal, R/o Village, Karjahan, P.O. Lar Road
District Deoria, Working as Gate Man, N.E.R. Railway
Station, Goshi, Varanasi Division, Varanasi.

... Applicant.

C/A Shri A.B. Singh

Versus

1. The Union of India through Deputy Regional Manager, Varanasi.
2. The Senior Divisional Operating Superintendent, Varanasi.
3. The Trafic Inspector N.E. Rly., Mau (Head Quarters) East, Varanasi.

... Respondents.

C/R Shri P. Mathur.

ORDER

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

This is an application under section 19 of the
Administrative Tribunals Act, 1985.

2. The applicant seeks following reliefs in this

application:-

- i. a direction to the respondents to regularise the services of the applicant.
- ii. a direction to the respondents to permit the applicant to work as substitute at Ghoshi till his services are regularised.
3. The applicant mentioned that he was appointed as casual labour as a Seasonal Water Man in 1980, 1981, 1988, 1989, 1990, 1992 and 1993. He has mentioned the period of work during these years and he was last posted at Ghoshi as seasonal waterman. He claimed that he was given status of permanent employee with effect from 21.01.85. He also claimed that the respondents had issued a circular for absorption of substitutes and screening test was held in which the applicant ~~was~~ appeared and had passed and was placed at sl. no. 50 and his juniors at 140 and 142, were still working but the applicant was not allowed to work. He claims that he had already passed screening test by the department and placed at sl. no. 50 at the penal. The applicant claims that he was working at the time of filing the application at the vacant regular post of Gatekeeper, but was orally asked not to work. He mentioned that he sent representation dated 16.03.93 that he should be continued to be employed at Ghoshi. He mentioned the case of one Shri Prem Chand Yadav and others who were in similar circumstances ^{and} by interim order were allowed to work by the Tribunal.
4. The applicant has annexed a copy of the order of D.R.M (P) dated 07.08.89 conferring permanent status

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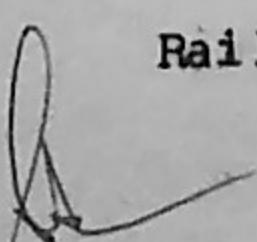
on a number of employees of the Railways including the applicant. The orders appears to be of conferment of status of temporary status employee on the applicant and the use of term permanent appears to be the mistake in the order. The applicant has also annexed the order of D.R.M.(P), Varanasi, which contains list of such persons who could be engaged as substitutes on contingency for appointment of the substitute arising in places mentioned against their names. The names mentioned in the list against the name of the applicant is that of Allahabad City.

5. The respondents in their counter reply have taken the stand that the status of the applicant was that of substitute and that is regularisation could be done only after he has ^{been} screened and brought on the panel of screened casual labour from the date on which he has ^{been} absorbed against any vacancy on the regular establishment of the Railways. This stand of the respondents is not acceptable because the applicant shows that he was granted temporary status vide order dated 07.06.89. The said temporary status is granted only after screening has been done. Although the applicant has claimed that he was screened before he was brought on the list of 29.01.92, but the order itself shows that the screening of these candidates have not been done because verification of opportunity of dates, they have asked, they have not completed and their turned for screening had not come. The claim of the applicant for screening before he was conferred temporary status can not be denied even by the respondents. The temporary status seems to have been conferred on

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him for the work put in by the applicant in the years 1988. & 1989. He was conferred temporary status with effect from 03.04.89 by this order dated 07.08.89. Such persons ceased to be casual worker and are granted better security of employment. Hence the reasons why the applicant was included in the list of unscreened candidate for the post of substitute which may arise in the Railways is not known. The bulk of previous experiences of the applicant appears to be that of waterman and he was granted temporary status after having worked as waterman at Bhatni for 120 days. The applicant has also submitted the certificate of work for 97 days between 07.03.93 and 02.08.93. Besides, his claim for having ~~asked~~ ^{worked} for more than 800 days during the period starting from 29.09.80 to 20.11.93 has not been denied by the respondents in their counter reply. The name of the applicant would, therefore, be not only on the list of workers who have been brought on the list of temporary status employees but also on the list of casual workers maintained by the Railways.

6. The respondents have stated in their counter reply that the turn of the applicant has not yet come. At the same time, they admitted the claim of the applicant for days of work in the Railways subject to its verification. Such conditional admission is not proper and the respondents have had sufficient time from 1993 when the OA was filed for verification of the claim of the applicant regarding period of ^{his} services in the Railways.



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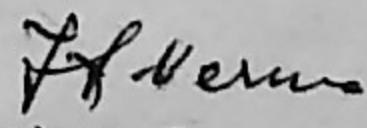
7. It appears that the respondents have not continued the services of the applicant on the ground that verification of his period of services has yet to be done. Similarly the claim of the applicant for regularisation also appears to be pending, for these reasons.

8. In the situation ~~emerging~~ in this case we deem it just and proper to direct the respondents to verify the services of the applicant within two months and also ascertain within this period whether any persons junior to the applicant in the list of casual labour or in the list of employee granted temporary status has been regularised on any post in the Railways for which the

~~In the eventuality of a junior being regularised~~
applicant is eligible, ~~the~~ the applicant shall also be considered for regularisation with effect from that date.

The respondents are also directed to consider the claim of the applicant for continuity of work as applicant had been granted temporary status and has not been terminated on account of any fault on his part for which he may have been given show cause notice and decide the claim within period of 2 months ~~from the date of receipt~~ of a copy of this order.

9. There shall be no order as to costs.


Member-A
Member-J

/pc/