

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated: Allahabad, the 9th day of April, 2001.

Coram: Hon'ble Mr. Justice R.R.K. Trivedi, VC
Hon'ble Mr. S. Dayal, A.M.

ORIGINAL APPLICATION No. 271 OF 1993

Mangru,
son of Lurkhur,
resident of Mahewa Kalan,
Pargana Khairagarh,
Post Mahwai,
District Allahabad.

. Applicant

(By Advocate: Sri R.A. Mishra)

Versus

1. Union of India, through its Secretary,
Ministry of Railways, Northern Railway,
New Delhi.

2. Assistant Engineer (I),
Northern Railway,
Allahabad.


3. D.S.E.,
Northern Railway,
Allahabad.

4. D.R.M.,
Northern Railway,
Allahabad.

5. I.W. (Special),
Northern Railway,
Allahabad.

. . . Respondents.

(By Advocate Sri G.P. Agarwal)



O R D E R

(ORAL)

(By Hon'ble Mr. Justice R.R.K. Trivedi, VC)

By this O.A. under Section 19 of Administrative (Tribunals) Act, 1985 (hereinafter referred to as 'Act'), the applicant has prayed for a direction to the Respondents to take the applicant on duty with immediate effect. He has also prayed that the respondents may be punished for contempt of court. The third relief claimed is for a direction to correct the ^{date of birth} ~~age~~ of the applicant in the service record.

2. The facts, in short, giving rise to this application are that the applicant was engaged as a casual labour on 10th January, 1969. He was terminated from service. Consequently, he filed Civil Suit in the Civil Court. The suit was dismissed by the learned Munsif, Allahabad, against which an Appeal was filed as Civil Appeal No. 382 of 1986, which was transferred to this Tribunal u/s 29 of the Act. The Appeal was registered in this Tribunal as T.A. No. 1425 of 19986. After hearing the parties, the T.A. was allowed by the following orders:-

" The appeal is allowed to the extent that the respondents are directed to re-consider the case of the applicant for re-employment or screening as the case may be in accordance with the scheme, which has been framed by the Railway Administration and in pursuance of the decision given by the Supreme Court in Inderpal Yadav's case. Let this consideration be done within a period of 3 months from the date of communication of the judgment. The appeal is allowed. The judgment of the Munsif is set aside."

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3.

It is not disputed that in pursuance of the order of this Tribunal, the applicant was given duty on 8th January, 1993. The applicant was allowed to work for some time and, thereafter, he was not permitted to discharge his duties, though no order in writing was communicated to him, aggrieved by which the applicant filed this O.A. on 17.2.1993. From the written reply submitted on behalf of the respondents, it appears that the applicant was absorbed on 26.9.1977 as casual labour against E.L.A. sanctioned ^{for} against a special job. It is also stated that he worked under the engagement. This Tribunal in its judgment dated 12th August, 1992 recorded a finding that the applicant had acquired temporary status, as he had worked for more than 120 days. In these facts and circumstances, in our opinion, the applicant could not be sacked from the job in the manner it has been done by the respondents. If there was anything on the basis of which he could not be continued on the job, he ought to have been apprised of the same by an order, in writing. It is admitted that he was allowed duty on 8th January, 1993 under order of this Tribunal. In our opinion, in the absence of such order, the applicant is entitled for relief. However, as he attained the age of superannuation during the pendency of this O.A., the question of his reinstatement on the job is out of question. However, He shall be entitled for the monetary benefits, which he could have normally received while serving on the post as casual labour.

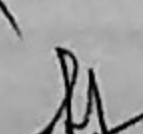
4. The second relief sought by the applicant is for punishing the respondents for contempt of court.


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4.

In our opinion, such relief cannot be granted in this Transfer Application and for this purpose, he should have filed a Contempt Application separately. The third relief is about correction of date of birth. According to the applicant, his date of birth is 5.6.1946. The reliance has been placed on the 'Kutumb Register' and affidavit, which we do not think ^{that they} can be relied on for deciding the dispute about the date of birth, after such a long time. Along with Counter Affidavit, respondents have filed the photocopy of the Register, which was prepared at the time the applicant joined Railways. The date of birth recorded in this document is 5.6.1935. He has also put his thumb impression on the paper. Thus, we accept the date of birth mentioned in this document, which was recorded at the time when there was no dispute between the parties.

5. Taking the date of birth as 5.6.1935, the applicant attained the age of superannuation on 30th June, 1995. The applicant is, in our opinion, legally entitled for the monetary benefits for this period, namely, from 8.1.93, on which date he was taken on duty, in pursuance of the order of this Tribunal ^{upto the date 30/6/1995.} As the applicant has not actually worked on the post, in our opinion, payment of 50% of the wages will satisfy the ends of justice. The amount, for which the applicant is entitled, shall be paid within four months from the date a copy of this order is filed before ^{the respondent No 4} ~~him~~. No order as to costs.


(S. DAYAL)
MEMBER (A)


(R.R.K. TRIVEDI)
VICE- CHAIRMAN

Nath/