

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
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Original Application No. 136-A of 1993

Allahabad this the Sixth day of October 1998

Hon'ble Mr. S. Dayal, Member (A)
Hon'ble Mr. S.K. Agrawal, Member (J)

1. Prabhu Nath S/o Sri Birbal Varma, resident of Village and P.O. Shahpur, District Ballia.
2. Hari Shankar Son of Late Deo Sharan, resident of Village and P.O. Lahartara, District Varanasi.

Applicants

By Advocate Sri M.P. Sinha

Versus

1. Union of India through the Secretary, Ministry of Railways, Government of India, Rail Bhawan, New Delhi.
2. The General Manager, N.E. Railway, Gorakhpur.
3. The Divisional Railway Manager (Ka), N.E. Railway, Varanasi.

Respondents

By Advocate Sri Amit Sthalekar

O R D E R

By Hon'ble Mr. S.K. Agrawal, Member (J)

In this O.A., the prayer of the applicants is to quash the impugned order dated 12/2/92 passed by the Divisional Railway Manager and directions to the respondents to appoint the applicants as other similarly situated employees have been re-employed.

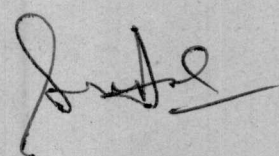


2. The facts of the case as stated by the applicants are that the applicants were selected as casual labourers after being successful in the test held on 20.5.85 and were appointed on temporary basis as substitute Engine Cleaners vide office order no.186 dated 31.5.85. The other co-employees were also appointed by another order but suddenly the services of applicant no.1 was dismissed on 04.8.85 and applicant no.2 was dismissed on 10.9.85. No notice was served on them before the order of dismissal was passed. Other co-employees were also dismissed but they have filed a writ petition in the High Court and thereafter filed a Special Leave petition before the Hon'ble Supreme Court of India. The Hon'ble Supreme Court passed order on 22.8.88 directing the respondents to employ three employees who were removed as casual labourer. The other co-employees Sri Sita Ram Sharma and Others were also filed writ petition before the Hon'ble Supreme Court of India under Article 32 of the Constitution of India. The writ petition is given the number 46 of 1989. Hon'ble Supreme Court after hearing the other parties, passed an order directing the respondents-railway authorities to consider the case of the petitioners for appointment to the post of Substitute Engine Cleaners against available future vacancies in accordance with the Rules, and on the basis of the order passed by the Hon'ble Supreme Court of India, General Manager, N.E. Railway on 20.3.89 passed an order appointing the petitioner of writ petition no.46 of 1989 as substitute Engine Cleaner.

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3. The grievance of the petitioners in this case is that by an order dated 12.2.92 passed by Divisional Railway Manager, Varanasi, railway authorities are discriminating by not appointing the applicants as Engine Cleaners.

4. The counter-affidavit was filed in this case. In the counter, it is stated that the case of the petitioners is entirely different from the persons for whom directions were given by the Hon'ble Supreme Court of India. The petitioners never worked as casual labourer in the railways in any unit, therefore, the question of giving them regular appointment does not arise. It is stated that the petitioners were appointed vide office order no.186 dated 03.5.88^{but} on physical verification it was found that their working certificates were false. The matter was ~~taken~~ taken into consideration by the Welfare Inspector and the petitioners were thereafter debarred from service. It is further submitted that Sri Sita Ram, M. Giri and Ranjit Chaudhari and Others had rendered service in the railway in the Broad-guage conversion as Casual labour but the petitioners had never worked as casual labour, hence, the case of the petitioners is not similarly with those cases in which the directions were given by the Hon'ble Supreme Court of India. Since the case of the petitioners being different from the persons named above, the petitioners were given suitable reply to there applications dated 23.9.91 and 20.10.91. Therefore, on the basis of counter-affidavit filed by the respondents, it was stated that the applicants are not entitled to seek any relief sought for.



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5. The rejoinder has been filed. In the rejoinder, it is stated that the applicants appeared in the written examination. It is further stated that ~~it~~ is wrong to say that the applicants working certificate were found false and matter was inquired by the Welfare Inspector.

6. Heard, the learned lawyer for the applicants and learned lawyer for the respondents and have perused the whole record.


7. The grievance of the applicants is that the relief which was granted to S/Sri Sita Ram, M.Giri and Ranjit Chaudhari etc., was not given to them but in our opinion the case of the applicants is quite different than those as mentioned above. As per the respondents, the applicants never worked as casual worker prior to 01.1.1981 and the certificates produced by the applicants in support of working, were found false. It appears that in C.A.No. 3028/88 decided on 22.8.88 by Hon'ble Supreme Court of India, the directions have been given to the respondents to employ 3 casual worker who were removed by the respondents. Similarly in writ petition no.46/89 directions were given to the railway authorities by the Hon'ble Supreme Court of India, to consider the cases of the petitioners for appointment to the post of Substitute Engine Cleaners but the case of the applicants is not at par with those, as mentioned above. The applicants of this case have failed to prove the fact that they ever worked as casual worker and certificates produced by them, were genuine whereas the respondents have categorically stated that the

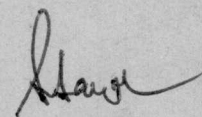
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aplicants never worked as casual worker and the certificates produced by them, were found false after inquiry made by Welfare Inspector. Therefore, in our opinion, the applicants failed to make out any case for interference by this Tribunal.

8. We, therefore, dismissed the O.A. with no order as to costs.


Member (J)


Member (A)

/M.M./