

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 2nd DAY OF AUGUST, 2001

Original Application No. 173 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Hakeem Mian, Ex.Casual labour  
North Eastern Railway Pilibhit  
(Izat Nagar Division), Son of  
Shri Abdul Majeed Khan, R/o Mohalla  
Jisauli, Bareilly.

... Applicant

(By Adv: Shri G.C.Gehrana)

Versus

1. Union of India through General Manager, N.E.Railway, Gorakhpur.
2. Senior Divisional Engineer- I N.E.Railway, Izat Nagar.
3. Divisional Railway Manager(P) N.E.Railway, Izat Nagar.

... Respondents

(By Adv: Shri Avnish Tripathi)

O R D E R (Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this application u/s 19 of A.T.Act 1985 applicant has prayed for a direction to the respondents to consider the question of regularisation of the applicant in group 'D' post in any of the vacancies available in the department in Izat Nagar Division or any other division of N.E.Railway. The case of the applicant is that he was initially engaged as Casual labour on 1.5.1978. He worked upto 15.6.1978. On the basis of the aforesaid work the applicant was again engaged on 20.12.1986. He continued in service upto December 1987. Thereafter the applicant was not

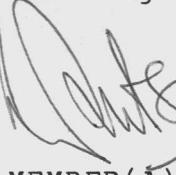
allowed to work. Applicant filed a representation on 12.11.1990 requesting the respondents to allow him to work on the post. The receipt of representation is not denied. The facts stated therein are also not in much dispute. However, in counter affidavit respondents have taken a case that applicant had left <sup>out</sup> his own, though it is admitted that he worked from 20.12.1986 to 15.11.1987. It has also been stated in the counter affidavit that applicant remained unauthorised <sup>or</sup> absent from duty on 23.1.1987, 13.4.87, 16.7.87, 10.8.87 to 12.8.87, 16.9.87, 9.10.87, 16.10.87, 23.10.87 and 24.10.87. The total absence alleged is of 11 days in one year. Further it appears that the absence between 23.3.1987 and 13.4.1987 is after applicant worked for three months. Then another break was between the month of April and July. In the circumstances, it is difficult to say that the applicant would not have completed 120 days between the period 20.12.1986 to 15.11.1987. It is alleged that applicant has left on his own and he never turned up. However, this allegation is believed by the representation filed by the applicant which is not denied by the respondents. In the representation applicant has given a specific reason that as verification of his past services rendered in 1978 was not available <sup>and</sup> he was not allowed to work. The certificate was given on 5.9.1989 by Divisional Accounts Officer. A copy of which has been filed as CA-II of the OA. The applicant has also filed the casual labour card as (Annexure A-1). From the aforesaid documents it appears that applicant had already rendered service in 1978 and on the basis of the same he was given employment in 1986, in absence of the verification by the department he was not continued and when the verification was received then also he was not allowed



:: 3 ::

to work. In the above circumstances the delay in filing OA cannot be said to be unexplained. The applicant also filed representation on 1.1.1991. In our opinion, the applicant is entitled for relief.

The OA is accordingly disposed of finally with the direction to the respondent no.2 to include the name of the applicant in the Live Casual Labour Register and treat him to have acquired temporary status in 1987. The applicant shall be allowed to work and shall be considered for regularisation according to his seniority and in accordance with law. However, he will not be entitled for any backwages. There will be no order as to costs.



MEMBER(A)



VICE CHAIRMAN

Dated: 02.8.2001

Uv/