

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

Original Application No. 1558 of 1994.

Allahabad, this the 11th day of November, 2002.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. S Jha, A.M.

Suresh Chandra Tiwari
son of Sri Chhotey Lal,
aged about 37 years,
resident of Village Rasoolpur,
P.O. Dumduma Asaria, District Allahabad.

.....Applicant.

(By Advocate : Sri H.N. Singh,
Sri A. Srivastava,
Sri Ravi Ranjan.

Versus.

1. Union of India
through Chairman,
Railway Board, Baroda House, New Delhi.
2. Senior Divisional Engineer,
Northern Railway, Allahabad.
3. Divisional Railway Manager,
Northern Railway, Allahabad.
4. Divisional Medical Officer,
Northern Railway, Kanpur.

.....Respondents.

(By Advocate : Sri J.N. Singh,
Sri A.K. Gaur.

ORDER (Oral)

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

By this O.A., under section 19 of the Administrative Tribunals Act, 1985, the applicant has challenged the order dated 25.02.92 by which the claim of the applicant for engaging him as group 'D' employee, has been rejected.

2. The facts of the case are that the applicant served as Casual Labour in Railway Service Commission, Allahabad w.e.f 22.03.1983. The applicant has claimed that he



worked in this capacity as Casual Labour for the period of 186 days in broken spells. The Railway Board by order dated 17.04.1984 directed that Casual Labours who were on the rolls of the Railway Service Commission, Allahabad on 8.7.1983, may also be considered for regularisation under extant Rules at par with Casual Labour of the Division. In pursuance of the aforesaid order of the Railway Board dated 17.04.1984 (Annexure 3), the applicant was considered. However, he was medically found unfit for the post of Group 'D'. Aggrieved by the aforesaid, the applicant ~~has~~ filed the O.A. before this Tribunal, which was registered as O.A. No. 586 of 1990. This O.A. was disposed of on 30.07.1999, with a direction to the respondent No. 3 to consider and pass suitable orders on the applicant's representation dated 5-1-1990 within a period of two months from the date of receipt of a certified copy of the judgement. In pursuance of the aforesaid direction, ~~without considering the order passed by~~ this Tribunal dated 25.02.2002, the respondents rejected the claim of the applicant and stated as follows:-

"I have carefully gone through this representation dated 5.1.90 from Sri Tewari and have also considered the rules and regulations governing his situation and am satisfied that the order of no continuing his engagement due to failure in the B-1 category is valid and shall hold".

3. The learned counsel for the applicant has submitted that the applicant, ~~however~~, ^{could be} considered for regularisation against a lower medical category, ~~which he could suggest.~~ He has placed reliance on the judgement of this Tribunal dated 22.11.1996 passed in O.A. No. 85 of 1990, Sayed Shamim Ahmad Vs. Union of India and others.



4. The learned counsel for the respondents, on the other hand submits that the applicant was required to be re-examine for medical fitness but he failed to turn up. In para 12, there is a categorical averments that though the applicant was sent with the medical memo dated 11.12.1991 to Divisional Medical Officer, Northern Railway, Kanpur for re-medical exam but he did not turn up. Learned counsel for the respondents has submitted that in view of the aforesaid, the applicant is not entitled for any relief from this Tribunal.

5. Learned counsel for the applicant relying on paragraph 12 of the Rejoinder, has submitted that the applicant made repeated requests, but he has not been examined. Reference has also been made in the Rejoinder Affidavit about 2 letters.

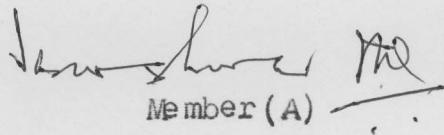
6. We have carefully considered the submissions of the counsel for the parties. However, we do not find that the applicant is entitled for any relief. It is not disputed that the direction passed by the Railway Board was to consider the representation of the applicant for regularisation against group 'D' posts. He was engaged as Casual Labour and the benefit of regularisation could not claimed as a Casual Labour against group 'D' posts. The applicant failed to satisfy the medical standard necessary for engagement as Group 'D' employee. In the circumstances, he could not claim any benefit. The judgement in Sayed Shamim Ahmad's case (Supra) was in respect of Casual Labour having temporary status. There is no averment in the O.A., that the applicant was ever conferred ~~any~~ temporary status, thus, the judgement of the Tribunal is not applicable in the present case.



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7. Even otherwise when the applicant was called for fresh medical examination, he failed to turn up as stated by the respondents in the Counter Affidavit. The applicant has mentioned 2 letters for claiming re-medical examination. These letters are not mentioned in the O.A., and even the copy of the letter relied on against the respondents, have not been filed ^{along with} in the Rejoinder Affidavit. ~~With~~ In the aforesaid circumstances, we do not find any merit in the case. The O.A. dismissed accordingly.

No order as to costs.


Member (A)


Vice-Chairman.

Manish/-