

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 20 DAY OF JANUARY, 1995

Original Application No. 1819 of 1994

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. K. MUTHUKUMAR, MEMBER (A)

Abdul Aziz, son of Shri Rahmat Ullah
working under Ambulance Driver under
Chief Medical Superintendent, N. Rly
Allahabad.

.... Applicant

BY ADVOCATE SHRI ANAND KUMAR

Versus

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Allahabad
3. The Chief Medical Superintendent Northern Railway, Allahabad.

.... Respondents

O R D E R (Reserved)

JUSTICE B.C. SAKSENA, V.C.

This O.A had come up for orders as regards admission. We have heard the learned counsel for the applicant.

2. The applicant was appointed as a Truck Driver in September 1972 under the Permanent Way Inspector, Northern Railway Fatehpur. A Trade test was held in the month of June 1974. The applicant was declared pass and was sent for medical examination and he was found fit in A-3 Medical Category and he was allowed revised scale. The applicant alleges that he has worked as Truck Driver/Motor Driver under Senior Health Inspector, Northern Railway Allahabad in the year 1980. Subsequently, on 18.9.95 he was asked to perform the duty of Ambulance driver. The applicant alleges that he made

repeated representations for his regularisation as Truck driver which evoked no response and he filed the O.A No. 657/89 which was disposed of on 5.5.93. In the said O.A as has been noted in the order passed by the Tribunal no counter affidavit was filed inspite of repeated opportunities. After noting a few documents annexed to the O.A which were certificates of honest intelligent work, the Tribunal was pleased to observe;

" Inspite of all these certificates enclosed by the applicant it is not known why the railway administration has not regularised the services of the applicant. We do not see any reason why such a service benefit is denied to the applicant. In the circumstances we direct the respondents to consider the case of the applicant and regularise him on the post of Truck driver in pursuance of process of selection and medical certificate which evidently has been given to the applicant vide Annexures 2 and 3 in the available vacancy or next vacancy, ~~if~~ ^{are} no vacancies/available now. The applicant should be given priority in the matter of regularisation over his juniors ~~and~~ outsiders. Let this be done within a period of three months from the date of communication of this order."

3. The applicant further alleges that in pursuance of the directions given in the order passed in the O.A No. 657/89 a Trade test was held and the applicant was

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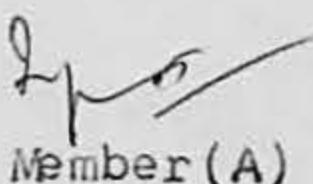
declared pass and thereafter his services were regularised with immediate effect vide letter dated 1.3.94 issued by the Asstt. Personnel Officer N. Railway Allahabad.

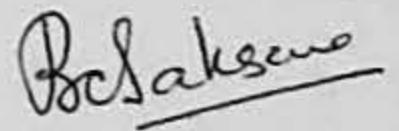
4. The applicant even after the said order was passed felt aggrieved as in his perception there was no complete compliance of the directions given in the order and the judgment passed by the Tribunal. He filed a contempt petition CCP No. 83/94 and the same was dismissed at the admission stage by an order dated 28.7.94. Copy of the order has been annexed as Annexure A-8. After noting the order for his regularisation and dealing with the plea that there has been violation of the court's order inasmuch as the applicant has been regularised w.e.f. the date of notice whereas, his juniors have been regularised earlier, it was observed that this is a separate matter and it certainly does not constitute any deliberate or wilful disobedience and the contempt petition was rejected.

5. The applicant's grievance is that two Truck drivers Chandramani and Gyanendra Singh have been regularised, from an earlier date than the date of regularisation of the applicant. The applicant has annexed copy of a seniority list issued by the Civil Engineering Department, Northern Railway. The names of the said persons have been shown at sl. no. 37 and 38 and the seniority list was issued on 15.10.91. The claim of being senior to the said persons is based on misconception. The applicant initially was appointed under Permanent Way Inspector Fatehpur and he was subsequently transferred to the Medical department. The said two persons alleged to be junior to the applicant are not working in the medical department. We, therefore, do not find any good reason to accept the contentions raised on

behalf of the applicant that the said persons are junior to him. The date of regularisation of the aforesaid two persons is 28.10.89. No such claim had been made in the O.A 657/89. The order passed by the Tribunal only provided that if vacancy is available, then the case of the applicant for regularisation may be considered against the said vacancy and if not, against the next vacancy which may arise. No doubt, it was also provided that the applicant should also given priority and preference in the matter of regularisation over his juniors and outsiders. This observation cannot be interpreted to mean, even if it could be accepted, that the two persons alleged by the applicant to be junior to him (though we have held to the contrary above) the applicant should have been regularised from the date they were regularised. They were regularised on 28.10.89 very much before the order dated 5.5.93 passed in O.A 657/89. The seniority list was issued on 15.10.91. No such grievance has been raised in the earlier O.A. The applicant cannot be permitted to reagitate the same claim and for the same relief over again which he could come and should have raised in the earlier O.A. It would be abuse of process of court.

6. In view of the discussion hereinabove, there is no merit in the O.A. It is accordingly dismissed summarily.


Member (A)


Vice Chairman

Dated: January 20, 1995

Uv/