

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD  
ADDITIONAL BENCH, ALIAHABAD

Dated: Allahabad, this the 20<sup>th</sup> day of October, 1995

Original Application No. 1180 of 1994

QUORUM

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Yamin Khan son of Sri Mamdaar Khan

Resident of Village and Post -Derapur,

District-Kanpur Dehat.

Sri K.K. Tripathi

..... Applicant

Versus

1. Union of India through its  
General Manager,  
Central Railway, Bombay
2. Divisional Railway Manager,  
Central Railway, Nagpur.
3. The Chief Signal Inspector (Const)  
Central Railway, Ajni, Nagpur.

Sri G.P. Agarwal

..... Respondents

ORDER

Hon'ble Mr. S. Das Gupta, A.M.

In this Application filed under Section 19 of  
the Central Administrative Tribunals Act, 1985, the  
relief prayed for is a direction to the Respondents

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to appoint the Applicant as ex MRCL (Khalasi) on the basis <sup>of</sup> a decision of the Principal Bench of the Tribunal dated 23-5-1988 and also on the basis of circular issued by the Railway Board mentioned in the said order. It is further prayed that the Respondents be directed to regularise the services of the Applicant.

2. The Applicant claims to have been appointed as a casual khalasi on 6-3-1984. He continuously worked till 5-5-1986 for which a certificate was granted by Respondent No.3, a copy of which is annexed as Annexure-A-2 to this Application. The Applicant, however, claims that thereafter the Respondents have taken work from him till 1990 with breaks in service but for this period of duty no certificate has been provided. The Applicant has stated that on 11-9-1991 the Applicant moved a representation to the Railway Minister for his re-engagement. This has been followed by several reminders but to no avail. Meanwhile, several employees from the railways who had completed service of 240 days claimed regularisation by filing a petition before the Principal Bench of the Tribunal. The Tribunal considered various <sup>h. circulars</sup> ~~surpluses~~ of <sup>Railway Board &</sup> labours and allowed the Application. The Applicant claims to have made representation for re-engagement on the basis of the same judgement but nothing came out of it.

3. The Respondents have filed a counter reply

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in which a preliminary objection has been taken to the maintainability of the Application both on the grounds of jurisdiction and limitation. It has been stated that the Applicant was engaged as casual labour at Nagpur and he was also dis-engaged at Nagpur. Hence Allahabad Branch of the Tribunal has no territorial jurisdiction to adjudicate this matter. It has been further averred that the Application is time barred and the Applicant has worked only upto 5-5-1986.

4. It has been stated in the counter reply that the certificate of working at Annexure-A-2 is a forged certificate and it was not issued by the authority concerned. It has been claimed that the Applicant had obtained the employment on the basis of false certificate and he was given show cause notice to prove the genuineness of his engagement and on his failure to do so, his services were terminated. It has been denied that he ever attained the status of monthly rated casual labour.

5. The Applicant has filed a rejoinder affidavit in which he has contested the contention of the Respondents that Annexure-A-2 is a forged certificate.

6. We have heard the Learned Counsels for the parties and gone through the pleadings. So far as the question of jurisdiction is concerned, the Applicant has stated in the rejoinder affidavit that he is settled down at Kanpur after dis-engagement. His Application filed in Allahabad Bench is <sup>thus</sup> maintainable.

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We accept this argument and hold that Allahabad Bench of the Tribunal thus has territorial jurisdiction to adjudicate this matter. We, however, find that the other pleadings of the Respondents that the Application is time barred has considerable force. ~~While~~ The Applicant, <sup>services,</sup> on own admission, ~~he~~ was terminated on 5-5-1986 and the working certificate which he has produced, whether it is forged or not, also indicates that he worked upto 5-5-1986. However, the Applicant is claiming that even thereafter, he worked upto 1990. Neither this claim is supported by any documentary evidence nor has it been admitted by the Respondents, who, in fact vehemently denied that he ever worked after 5-5-1986.

7. Recokned from 5-5-1986, this Application, which was filed on 2-8-1994, is highly time barred. Even if we accept the Applicant's plea that he has worked till 1990, the Applicant is highly time barred.

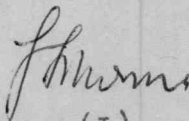
8. While the Application could have been dismissed on the ground of limitation alone, we nevertheless have also considered whether the Application has any merit. ~~Ascertaining~~ <sup>From</sup> the averments, it is clear that the Applicant was given a show cause notice which fact has not been denied by the Applicant, to prove the genuineness of his earlier engagement based on which he was engaged in 1984. The Respondents have clearly stated that the Applicant had failed to prove the genuineness of his earlier engagement and as such, he was removed from service. The only point that could have arisen at this stage was whether the proceeding under Discipline and Appeal Rules was necessary to

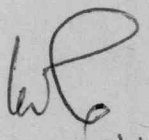
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order his removal. Such <sup>proceedings</sup> facts are however, necessary only in respect of those casual labours who have attained temporary status. The Respondents have specifically averred that the Applicant had not acquired the status of MRCL. The Applicant's claim that he has attained such status is based on a certificate at Annexure-A-2 which has <sup>been</sup> stated to be an act of forgery by the Respondents. The Applicant has not, therefore, been able to establish beyond any reasonable doubt that he did attain the temporary status and, therefore, there was no necessity under the rules to proceed under the Discipline and Appeal Rules before the services were terminated.

9. In view of the foregoing, we find that the Application is not only time-barred but also is devoid of merit. It deserves to be dismissed and is dismissed accordingly.

10. There shall be no order as to costs.

  
Member (J)

  
Member (A)

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