

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

Original Application No.1300 of 2000.

Allahabad, this the 21st day of March, 2005.

Hon'ble Mr. D.R. Tiwari, A.M.

Hari Nath Yadav,
aged about 34 years,
S/o Shri Hasanu Yadav,
R/o Village - Nagnepar,
Post Bandi Kalan,
Tehsil- Mohammadabad,
Garen,
District- Mau.

....Applicant.

(By Advocate : Shri R. Verma)

Versus

1. Union of India,
through the General Manager,
North Eastern Railway,
Gorakhpur.
2. The Divisional Railway Manager,
North Eastern Railway, Varanasi
Division, Varanasi.
3. The Station Superintendent,
North Eastern Railway,
Azamgarh.

....Respondents.

(By Advocate : Shri K.P. Singh)

O R D E R

By Hon'ble Mr. D.R. Tiwari, A.M. :

Heard the learned counsel for the parties.

2. By this OA, filed under Section 19 of A.T. Act, 1985,
the applicant has prayed for the following relief(s) :-

- i) To issue a writ, order or direction in the nature
of Mandamus directing the respondent No.2 to
re-engage the applicant as Casual Labour from the
date when his junior has been re-engaged.

....2.

[Signature]

- ii) To issue a writ, order or direction in the nature of Mandamus directing the respondent No.2 to re-engage the applicant as Casual Labour as per his turn on the basis of seniority position based on number of days work and thereafter to regularise him against Group 'D' post on availability of vacancy.

3. The counsel for the applicant Shri R. Verma submitted that the applicant had worked as Waterman in casual capacity from 5.7.1984 to 31.7.1984 and thereafter from 1.8.1984 to 13.8.1984, total 40 days under the control of respondent No.2. In para 3 & 4 of the OA he has also given a details of his working as substitute. Para 3 thereof indicates that he worked for 75 days and para 4 shows that he ^{had} worked for 44 days. He has conceded that his appointment as Casual Labour was not with the approval of the General Manager so he agreed that the applicant was working as unauthorised substitute. However, the counsel pleads that though he was unauthorised substitute but the number of days he had worked for has not been contested by the respondents. Learned counsel for the applicant submits that this case is squarely covered by the decision of this Tribunal in the OA No.1193/96 decided on 21.8.2000. The operative portion of the order in the aforesaid OA is as under :-

" The OA is, therefore, disposed with the direction to respondent No.2 to consider the case of the applicant for regularisation/appointment as regular Class IV employee as soon as authorised casual labour are regularised as per his turn. There shall be no order as to costs."

He has further submitted that this OA also deserves to be allowed.

.... 3.

D. Verma

4. Shri K.P. Singh, learned counsel for the respondents has submitted that the OA is time barred and no delay condonation application has also been filed. He relied on the decision of the Hon'ble Supreme Court in the case of R.C. Sharma Vs. Uddam Singh Kamal - 2000(1) SCC 178, wherein it has been held that the Court and Tribunal will not entertain the application in case no delay condonation application has been filed. In the fact situation of this case, I feel the case of R. C. Sharma does ^{not} appear ^{to be} applicable in this case.

5. In the interest of justice, I am of the view that particularly in view of this fact ^{that} under the similar circumstances this Tribunal ^{has} decided the OA in the case of Jamuna (supra).

6. In view of the fact and circumstances mentioned above, this OA is allowed in terms of the order of this Tribunal in the case of Jamuna passed in OA No.1193/96. No costs.

D. K. Singh
Member-A

RKM/