

(Open Court)

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH, ALLAHABAD

Original Application 1451 of 2000

Allahabad this the 01st day of May, 2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

1. Ashok Kumar,  
son of Shive Ram Singh,  
r/o Yadav Nagar, Bharthana,  
District Etawah.
2. Raj Bahadur,  
son of Banwari Lal,  
r/o Village Palhanpur, P.O.  
Sandalpur, District Kanpur Dehat

• • • • Applicants.

(By Advocate : Sri R.S.Parihar)

V E R S U S

- 1 Union of India through Divisional  
Rail Manager Northern Railway,  
Allahabad.
2. Deputy Personal Officer,  
Traffic and Commercial Department,  
Northern Railway, Allahabad.

(By Advocate : Sri M.K. Sharma for Sri A.K. Gaur)

O R D E R

By this O.A., two applicants have sought a direction  
to the respondents to include the name of the applicants  
in the panel list forthwith alongwith entire benefits and  
seniority w.e.f. the date juniors to the applicants were  
given.

2. It is submitted by the applicants that they were engaged as casual labour in the year 1977-78 and had completed more than 120 days, but in the year 1990 when a panel was prepared, though the applicants were also allowed to participate and at that time all the documents had deposited with the respondents, but the applicants' name did not figure in the said list, though their juniors were empanelled. Being aggrieved, they filed O.A. no. 189 of 1991 before the Tribunal, which was decided vide order dated 20.5.93. In the said judgment, the Tribunal observed as under :

"-----The applicants have produced before us a statement wherein the names of 7 candidates included in the panel are mentioned who have put in less number of working days than the applicants. The respondents may verify the numbers of these candidates namely Munnu Lal (126) days, Kishori Lal (130 days), Krishnanand (132), Rajendra Prasad (130 days), Rais Hasan (141 days), Arbind Kumar (149 days), Main (192 days) and Brij Mohan found to be correct with reference of these persons, the cases of the applicants also for screening and regularisation deserves to be considered as the respondents in that event cannot take a stand that no juniors of the applicants were appointed.

Accordingly the Tribunal had directed the respondents to verify the list and incase any junior to the applicants, particularly, those whose names have been indicated in the panel, the cases of the applicants may also be considered for similar benefits. Let the process of verification and further action be completed within 3 months from the date of communication of this order. In case the information furnished by the applicants is found to be not based on any record or factually not correct, the applicants have ofcourse no case. They may have to wait for their turn according to seniority for screening and regularisation.

3. It is submitted by the applicants that thereafter APO had also admitted in his note that the petitioners are senior to many those who have been brought on the panel as they were engaged prior to 1979. Therefore, it was desired that their working days may be got verified from the paid vouchers, which is a authentic record by deputing Inspector for taking further necessary action, but in spite

of that, the respondents were asked vide letter dated 14.3.2000 to deposit the original record (page 13), but since the original record/documents were already submitted by the applicant at the time of screening, naturally they could not have produced the original documents, which were duly replied to by the applicant to the authorities. Ultimately, vide order dated 28.4.2000, the respondents informed the applicants that in absence of papers not having been submitted by them, nothing can be done in their cases (page 14). It is this order which has been challenged by the applicant in the present O.A.

3. The applicants' counsel contended that once the respondents had themselves admitted that persons junior to the applicants were already empanelled, they cannot insist for production of the original documents from the deposited applicants as all the documents were already/with the respondents themselves and that the respondents were required to carry-out the screening and to give appointments and other benefits from the same date when their juniors ~~had~~ been appointed.

4. This O.A. has been opposed by the respondents who have submitted that this O.A. is not at all maintainable inasmuch as after the first O.A. was decided, the respondents had undertaken the exercise to verify the factual position with regard to the applicants and on verification it was found that there was no authentic proof regarding applicants having worked for the said period. Therefore, all/ facts were brought to the notice of the Court when the applicants had filed Contempt petition and in view of the submissions made by the respondents, the Tribunal while deciding the contempt petition vide its order dated 24.9.99 observed as under :

"-----In the circumstances, we can only ~~not~~ order that if the applicants submit the originally the respondents may consider the same arrive to a conclusion.

When the records that is to say paid vouchers are not inexistence the period of working cannot be traced-out.

The respondents have their best efforts to comply the order passed by this Tribunal. Certainly it is the duty of the applicants to furnish the information -n the then respondents have to arrive to a conclusion. As the applicants have not furnished the originals, the act of the respondents cannot be said to be wilful in disregard of the order passed by the Tribunal.

In the circumstances, no case of wilful disobedience is made-out not to consider photocopies is proper one, hence notices issued to the respondents are discharged and application (contempt) is consigned to record room with a direct that if the applicants sub-Annexure A-II to Annexure A-XI in original field with rejoinder affidavit, respondents may reconsider the same within a period of 2 months. No order as to costs."

5. The counsel for the respondents also invited my attention to para 4 of the said order in CCP wherein A.P.O.'s note had also taken into consideration at the time of deciding the contempt petition. Therefore, he submitted that once the Tribunal was satisfied with the explanation given by the respondents' stand and had already directed the respondents that incase the applicants submit the original documents filed by them with their Rejoinder affidavit, the respondents may re-consider the same within two months and no further justification was required in this case as thereafter the applicants have not produced the original documents to the respondents. They have, thus, submitted that O.A. is liable to be dismissed.

6. I have heard both the counsel and perused the pleadings as well.

7. The learned counsel for the applicant has strenuously argued that there was no direction given by the Tribunal in its original order to produce the original documents, therefore, the Tribunal in Contempt petition could not have given a further direction to the applicants to produce the original documents. I am afraid, ~~and~~ I cannot comment on this argument of the applicant because once after adjudicating upon the matter, the Division Bench had passed a detailed order,

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I cannot sit on appeal over the said order sitting as a Single Member of the Bench. Even otherwise, if the applicants were aggrieved by the said directions given by Division Bench in the Contempt Petition, it was open to the applicant to challenge the same in the High Court, but they did not challenge the same. The respondents had placed this very note of APO in the C.P. which has been relied upon by applicants now before me to stress that the directions given by the Tribunal have not been complied with in as much as the APO had himself admitted that those who were empanelled seem to be junior to applicants but after looking at all the aspects of the matter, the Tribunal was satisfied that the steps taken by the respondents were correct and in accordance with law. Therefore, the Tribunal had directed the respondents that incase the applicants produce the original documents of Annexures which they had filed with their Rejoinder affidavit, the respondents may re-consider their cases within two months. Thereafter, the respondents had asked the applicants in writing to produce the original documents, but the applicants failed to produce the original documents therefore they cannot have any grievance now. Once the Tribunal had given direction in C.P. both the parties were bound by it. No interference is called for in the given circumstances.

8. In view of the above discussions, I do not find any merit in the present case. Accordingly, the same is dismissed with no order as to costs.

  
MEMBER (J)

GIRISH/-