

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 706 OF 2000

ALLAHABAD, THIS THE 30th DAY OF June 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Tilakdhari
son of Sri Banshidhar,
r/o Village Ulda,
P.O. Bharatganj (via) Mandar,
District-Allahabad.

.....Applicant

(By Advocate : Shri A.K. Sinha)

V E R S U S

1. Union of India through General Manager,
N. Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Nawab Usuf Road, Allahabad.

.....Respondents

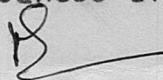
(By Advocate : Shri A. K. Gaur)

O R D E R

By this O.A. applicant has sought the following
relief(s):-

"8.1 : call for the casual labour live register of the relevant period from the respondents in which name of the applicant is stated to have been entered as also the panel of T&C department of the years 1988-1989 and 1990 and after perusal may be pleased to issue an order direction to the respondents to screen and regularise the applicant in Group 'D' service with all consequential benefits vis-a-vis his next junior by correcting his seniority in the Live Casual Labour Register

8-2 : Pass such other or further order as the Hon. Tribunal may deem fit and proper in the circumstances of the case."



....2/-

2. It is submitted by the applicant that he worked as waterman for 840 days from April 1983 to August 1990 in Summer Season. He was informed that due to some mistake his name could not be fed in the Computer, therefore, his name does not appear in the Live Register. Being aggrieved he along with others filed O.A. No.827/1991 which was decided on 08.05.1992(Annexure A-2) and it was held as under:-

"Accordingly the respondents are directed to consider the case of the applicants for inclusion of their names in the casual labour Live Register within a period of 3 months from the date of communication of this order and in case any person who has worked as water man for a lesser period than the applicants, the applicants name may be included by way of supplementary list and if a similarly placed person has been screened, the applicants may also be screened seen for regularisation or absorption as the case may be. The applicants will furnish the requisite particulars within a period of three weeks to the Railway Administration. The application stands disposed of finally in these terms."

3. He gave representation giving names of juniors who were working in regular group 'D' service (Annexure A-3). Vide letter dated 15.03.1993 applicant was informed that his name has been entered in Live Register at Sl.No.625 i.e. at the bottom of list. Being aggrieved applicant filed C.P. No.833/93. However, C.P. was dropped on 04.06.1999 respondents informed the court that applicant had not put in 120 days in T&C department as on 01.05.1988, the cut off date. The Tribunal therefore, gave liberty the applicant to file fresh O.A. in case they are aggrieved.

4. Applicant therefore, filed this O.A. on the ground that seniority had to be calculated on division basis not on department wise., whereas respondents on the other hand have submitted that the Unit of Casual Labour is taken into account by the Senior Subordinates of a particular sub-



...3/-

department of Railway. If a Casual Labour sub-moto leaves the job in a particular unit and gets re-engaged ^B himself in another unit, then he loses right of seniority in favour of unit, but for the purpose of screening and regularisation he can be considered in any sub-department, if a person with less number of working days is being considered in that particular unit. They have further submitted that at present there is no regular cadre of waterman category on Allahabad Division and neither there is any likelihood of any requirement for creation of additional post of waterman in Group 'D' and keeping in view the economical stress from High Levels in the interest of National Economic Health.

5. Counsel for the respondents also submitted that the case of the applicant has thoroughly been examined and on examination of the case, it has been found that on the cut off date i.e. 01.05.1988 he had not completed 120 days in Traffic and Commercial Department. As per the pre-requisite conditions laid down for the purpose of screening of casual labour of a particular department with para F(V) ordered captioned under 'Absorption of Casual Labour in regular vacancies' of Northern Railway Printed Serial No.7850, the applicant does not stand eligible for screening in Traffic and Commercial Department. As regards the allegations that 10 persons who have been ~~ever~~ panelled in the last screening in question, have been examined by the respondents and they were considered only after examining ~~on~~ their ~~eligibility~~ and since they were fulfilling the pre-requisite conditions ~~as~~ on cut off date as on 01.05.88 hence were screened and placed on the panel. The applicant's case is wholly different from those persons as alleged. They have thus submitted that O.A. may be dismissed.

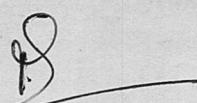


6. Counsel for the applicant had insisted that seniority has to be determined on the basis of division and not unit wise or department wise while respondents had submitted that it has to be determined unit wise therefore, I had directed the respondents to place on record relevant rules.

7. Respondents have annexed PS 9544 as SR-I in support of their contention. They have also submitted that at present there is no requirement of Casual Labour due to reduction in sanctioned strength of staff under Manpower Planning Scheme therefore, respondents are not in a position to accommodate the applicant in their organisation. They have also relied on the order dated 11.08.1986 passed by Hon'ble Supreme Court in Inder Pal Yadav & Ors. Vs. the case of Union of India and Ors. wherein the Scheme of Railways to prepare the lists with reference to each department in each division and also in regard to each category viz skilled semi-skilled and unskilled was upheld by observing that this is in compliance with the Judgment dated 18.04.1985.

8. It is thus, clear that the Scheme of respondents in preparing lists, departmentwise and category wise are in conformity with the Supreme Court's directions as upheld by none else than Supreme Court itself. Therefore, it calls for no further deliberations by the Tribunal. We have to keep in mind that Scheme itself was prepared for regularisation on the directions given by Hon'ble Supreme Court and when they have approved preparing the list department wise and category wise, that has become final.

9. Even otherwise, it is seen that when applicant had approached this Tribunal by filing O.A. No.827/91, this Tribunal had directed the respondent (1) to consider the case of applicant for inclusion of their names in the casual Labour



regarding (2) - in case any person who has worked for lesser number of days than applicant as waterman, his name may also be included by way of supplementary list and if similarly placed person has been screened, applicant may also be screened for regularisation.

10. In contempt proceedings applicant himself admitted that 1st direction has been complied with therefore now he cannot have any grievance as far as 1st direction is concerned viz to enter his name in the Live Casual Register. Applicant's grievance was only with regard to direction No.2 for which he was given liberty to re-agitate. Therefore, we could only ^{see} ~~see~~ whether 2nd direction has been complied with or not.

11. It is seen that applicant had merely given names in the representation about 10 persons, who were stated to be junior to him but in the O.A. he has not even made an averment as to who are the juniors persons and ^{he} ~~he~~ claims them to be junior to him. After all when he had filed fresh proceedings and his whole case as argued was that he has been discriminated against, atleast the case should have been properly set out so that respondents could have responded to the facts. However, respondents have explained in contempt petition itself that those 10 persons were found to be eligible as they had completed 120 days in T & C department as on 01.05.1988. In these circumstances, it cannot be said that applicant were similarly situated as those 10 persons because to claim similarity one has to demonstrate that he and others were on the same platform. Two differently situated persons cannot be stated to be similarly situated. Since those 10 persons were situated differently, applicant cannot claim benefit of

PS

// 6 //

screening qua them.

12. In view of the above discussion, no case is made out for interference by the Court. The O.A. is accordingly dismissed with no order as to costs.



Member (J)

shukla/-