

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Dated : This the 10th day of MARCH 2005.

Original Application No. 1562 of 2002

Hon'ble Mr. K.B.S. Rajan, Member (J)

Jaiveer Singh, S/o Sri Zileedar Singh,  
R/o Nagla Mewa, Post Udesar,  
FIROZABAD

... Applicant

By Adv : Sri S. Dwivedi

V E R S U S

1. Union of India through the General Manager,  
Northern Railway, Baroda House,  
New Delhi.
2. The Divisional Railway Manager,  
Northern Railway, Baroda House,  
Allahabad
3. The Assistant Divisional Engineer, (Track),  
Northern Railway,  
Tundla.

... Respondents

By Adv : Sri A.K. Gaur

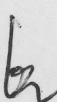
ORDER

By K.B.S. Rajan, JM

This is the second round of litigation by the applicant. The earlier OA 895 of 1008 vide order dated 12<sup>th</sup> March, 2001 culminated to the following extent:-

*"6. Regarding application of the applicant dated 13-08-1986 to allow him to join, it has been mentioned in the C.A. that since he was medically de-categorized for all jobs, therefore, he could not be provided with any job.*

*7. Keeping in view the above facts and circumstances, it is found that the relief sought by the applicant regarding inclusion of his name in the Live Casual Labour Register has already been granted and there is specific mention by the respondents that whenever turn*



comes, the applicant will be provided with job as per his entitlement.

8. For the above, the O.A. is decided with the direction that the respondents shall take care that the claim of the applicant is not denied when it accrues to him as per rules and his entitlement in this regard. It is also provided that regarding medical decategorisation, the applicant be go examined by Medical Board to ascertain his medical decategorisation within 3 months from the date of communication of this order. No order as to costs."

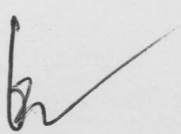
2. Subsequent development in the case is that the applicant was examined by the Medical Superintendent of Railway Hospital and he was declared fit for B-1 Category with glass vide relevant certificate dated 26-06-2001. On the strength of the aforesaid medical certificate, the applicant preferred an application dated 18<sup>th</sup> July, 2001 to the Divisional Superintending Engineer (F), Northern Railway, Allahabad. No action having been taken by the respondents, the applicant has moved the Tribunal again for the following relief:-

- (i) That the respondents be directed to consider the applicant for re-engagement/appointment on Group 'D' post in the medical category B-1 in which he has been declared fit vide medical certificate dated 26.6.2001 by the Medical Superintendent, Northern Railway, Allahabad or on the post of lower medical category and further the respondents be directed that the applicant be given appointment and he allowed all the benefits attached to the post with effect from the date of re-engagement/ appointment of junior persons and fresh candidates..
- (ii) That the respondents be directed to regularize or absorb the applicant against regular Group 'D' post and vacancy after re-engagement/appointment in the department of Railway in preference to Junior persons and fresh candidates and he be allowed all the benefits of the post with effect from the date of re-engagement/appointment and absorption/regularization of junior persons and fresh candidates."

3. The applicant heavily relied upon the Railway Board Circular 11-12-1996 in connection with the regularization of the employment.

4. The respondents have in their counter stated as under:-

"11. .... it is submitted that in compliance of the direction given by the Hon'ble Tribunal, in judgment /order dt. 12.3.2001 passed by original application No. 895 of 1998, (Jai Veer Singh Vs. Union of India and others) the applicant has

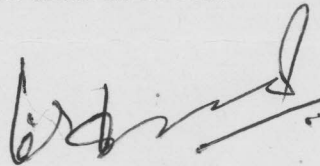


*been medically examined by Railway Doctor, and accordingly found fit in B-1 category. The name of the applicant has been entered into live Casual Register at serial No. 67. It is also pertinent to mention here that no person Junior to the applicant in Live Casual Register has been appointed. The applicant will be appointed/re-engaged in Group 'D' category on the availability of vacancy at his turn as per his seniority position."*

5. The above position has however been rebutted by the applicant in his rejoinder.

6. Arguments have been heard and the documents perused. Admittedly, the applicant now being medically categorized as fit for certain job, he is entitled to be engaged as casual labour in accordance with the provisions of the extant rules and if the authorities are right that his turn has not come, certainly the applicant has to wait. However, since no records have been produced to establish the averment that no junior to the applicant has been engaged, irrespective of the position in regard to this aspect, since adequate time has expired from the date of re medical examination (2001) the respondents are directed to consider the applicant for the next immediately available vacancy. This drill should be completed within the next three months and in case by then no requirement for engaging casual labourer arises, the respondent shall promptly inform the applicant of the status of his engagement and the probable date by which he would be considered for engagement.

7 Under the above circumstances, no order as to cost.



MEMBER-J

GIRISH/-