

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH ALLAHABAD.

Original Application No.228 of 2002.

Allahabad this the 22nd day of April 2003.

Hon'ble Mr.Justice R.R.K. Trivedi, V.C.

Gauri Shanker Singh  
aged about 41 years  
Son of Late Shri Ram Cheese Singh  
R/o Village & Post Pakari,  
District Ballia.

.....Applicant.

(By Advocate : Sri Rakesh Verma)

Versus.

1. Union of India  
through the General Manager  
North Eastern Railway  
Gorakhpur
2. The Divisional Railway Manager (P)  
North Eastern Railway  
Varanasi.

.....Respondents.

(By Advocate : Sri K.P. Singh)

O R D E R

By this O.A. filed under section 19 of Administrative Tribunals Act 1985, applicant has challenged the order dated 07.09.2001, <sup>is</sup> The claim of the applicant for re-engagement as Casual Labourer/ substitute and for regularisation of his service at par with Shri Balbhadr Singh and Sukhu Singh.

2. Before filing this O.A., the applicant filed O.A. No.982 of 1995 which was finally disposed of on 16.03.2001. In the above O.A., applicant had sought the direction from this Tribunal to regularise his service and to appoint him in Group 'D' post. In the aforesaid relief was sought by the applicant on the ground that he was engaged as Substitute w.e.f. 08.06.1981 and worked upto 9.6.1990 with some artificial breaks. However, this relief was not granted

to the applicant. The Tribunal rejected the claim of the applicant by following findings:-

"The learned counsel for the respondents has, at the outset, argued that since the applicant was dis-engaged w.e.f. 10.06.1990 and the present O.A. has been filed in the year 1995, the O.A. is obviously time barred and the same be dismissed on this ground alone. However, we find from the averments made in para 7 of the Counter reply that the respondents have clearly stated that the applicant will get a chance as soon as senior and old faces casual labourers/Substitutes exhausted, because the engagement of the applicant was initially illegal and as such he was not entitled for continuance as Substitute employee. Therefore, we find that applicant has continuous cause of action because the applicant will get a chance as soon as list of his senior Substitutes is exhausted. We, therefore, dispose of this O.A. with the directions to the respondents to re-engage the applicant as and when the vacancy is available and his services will be regularised as per rules".

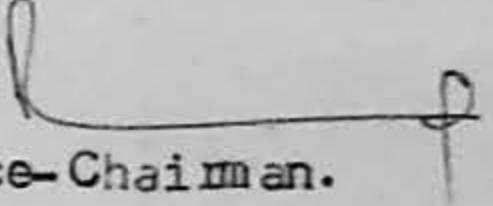
3. From the aforesaid finding, it is clear that the Tribunal accepted the case of the respondents that initial engagement of the applicant was illegal and he was not entitled for continuance as Substitute employee. Therefore, the Tribunal disposed of the O.A. with the direction to respondents to re-engage the applicant as and when the vacancy is available and his services will be regularised as per rules. The applicant is not entitled to file another O.A. <sup>for the relief or</sup> which was once being rejected, in earlier O.A.

4. Learned counsel for the applicant assailed the order dated 07.09.2001 on the ground that respondent No.2 has wrongly held that initial engagement of the applicant was without approval of the Competent Authority. Hence engagement of the applicant as Substitute was illegal. Learned counsel for the applicant placed reliance for the submissions on Full Bench judgement of this Tribunal in the case of Mahabir Prasad and others vs. Union of India and others 2000(3) A.T.J. page 1. However, the Full Bench judgement cannot help the applicant in the case, as Division Bench by order dated 16.03.2001 (Annexure 3)

accepted the case of the respondent that engagement of the applicant was illegal. The earlier order passed by this Tribunal has become final and is binding upon the applicant. In the circumstances I do not find any illegality in the order and the applicant is not entitled for the relief claimed and rejected by the order dated 07.09.2001. In view of the direction given by the Division Bench of this Tribunal dated 16.03.2001, however the respondents shall re-engage the applicant as and when the vacancy is available.

5. Subject to aforesaid, the O.A. is rejected.

No order as to costs.

  
Vice-Chairman.

Manish/-