

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NO.886 OF 2002^r
ALLAHABAD THIS THE 29TH DAY OF JUNE, 2004

HON'BLE MRS. MEERA CHHIBBER, MEMBER-J

Mahesh Chandra,
S/o Arjun ,
resident of Village and Post Kabroi,
District Mahoba .

.....Applicant

(By Advocate Shri R.K. Rajan)

Versus

1. Union of India,
through the General Manager,
Central Railway, Mumbai.
2. The Divisional Railway Manager,
Jhansi Mandal,
Jhansi (Central Railways).
3. The Permanent Way Inspector,
Karwi, Under the Divisional Railway Manager,
Jhansi (Central Railway).

.....Respondents

(By Advocate Sri P. Mathur)

ORDER

None for the applicant, even in the revised call.
Sri P. Mathur, counsel for the respondents is present. I am
deciding this case on merits after hearing the respondent's
counsel and by attracting Rule 15(1) of C.A.T. Procedure
Rules 1987.



2. By this O.A. applicant has sought a direction to the respondents to re-engage the applicant in service as his juniors have been re-engaged and to verify the original records of applicant and to give him all privileges and benefits with temporary status.

3. The O.A. is, however, opposed by the respondents on the ground that since applicant had already filed earlier O.A. No.553/92 which was disposed of on 31.03.1999 seeking the same relief, applicant cannot file the second O.A. all over again for the same relief, therefore, this O.A. is barred by the Principles of res-judicata. In case, the directions given by the Tribunal were not complied with, it was open to the applicant to file a contempt petition but no such effort was made and the present O.A. has been filed only in the year 2002 that too without giving any names of the juniors who were alleged to have been engaged by the respondents. They have further submitted that once a final judgment had been given in the case of applicant, specifically, ^{the B} in other judgment given in the case of other persons cannot enlarge the scope of the judgment given in the case of applicant, ~~themselves~~. They have thus, prayed that the O.A. may be dismissed on the ground of res-judicata itself. Even otherwise they have stated that no person junior to the applicant has been re-engaged by the respondents, therefore, the O.A. is liable to be dismissed even otherwise on merits.

4. Counter Affidavit was filed by the respondents as back as on 30.09.2002 but applicant has not even bothered to file any Rejoinder affidavit, so far, meaning thereby that the averments made by the respondents have not been controverted by the applicant, therefore, in law they are deemed to have



been accepted by the applicant.

5. Perusal of judgment dated 31.03.1999 shows that there were 53 applicants therein and applicant was at serial no.4 ~~therein~~. All those applicants had sought the following reliefs:

- "(i) A direction to the respondent nos.2 and 3 to re-engage the applicants for their job.
- (ii) A direction may be issued to respondents no.2 and 3 that after ascertaining from the original records, the respondents may give all privileges and benefits and post of temporary status since they have completed more than required period of the same.
- (iii) A direction in the nature of mandamus directing the respondents to give all benefits and privileges including arrears of salary from the date of their dis-engagement as per the policy.
- (iv) A direction may be issued to the respondents to prepare a seniority list of casual labourers and fix their seniority according to their period of engagement which is known as Live Casual Register.
- (v) A direction to the respondent nos. 2 and 3 to given all arrears of salary and benefits of Class IV employee since the date of dis-engagement of the applicants as per the chart."

6. After discussing everything this Tribunal had recorded a categorical finding as follows:-

"10. From a careful consideration of the above, the averment of the respondents that no junior had been engaged and from a perusal of the details given in Annexure-1 of R.A., we are of the view that the applicants have not made out a case for re-engagement on the ground that juniors to them have been engaged under PWI, Karvi by the respondents."

However, the O.A. was finally disposed of by giving liberty to the respondents to verify the details. In case any applicant has any grievance with regard to the number of days shown in their Casual Labour Cards or about non-issue of Casual Labour cards, they can give a representation to that effect within three months from the date of judgment, otherwise respondents were directed to advise such of the applicants who were



entitled for grant of Temporary Status the dates from which they are due and ^{give} temporary status within three months from the date of receipt of a copy of this order. Respondents were further directed to give benefit of the Temporary status to the applicants as and when they are re-engaged. It was specifically held that the ratio of judgment in O.A. No. 1550/92 and O.A. No. 704/98 is not applicable in the present facts and circumstances of the case.

7. Pursuant to the said judgment respondents informed the applicant that he has been given MRCL status w.e.f. 01.06.1983 vide letter dated 17.06.2000. The said letter has not been challenged by the applicant in any O.A. On the contrary he has filed the present O.A. once again seeking the same reliefs as was sought by him in O.A. No. 553/92. The reliefs sought in the present O.A. are as under:-

"(i) That a direction may be issued to the respondents to re-engage the applicant in his service as juniors have been re-engaged by the same respondents.

(ii) That a direction may be issued to the respondents to verify the original service record working of the applicant, register and pay sheet and give all privileges and benefits to the applicant to the post of temporary status employee.

(iii) Any other direction to the respondents which the Tribunal may deem fit and proper in the interest of justice.

(iv) Cost of the proceedings be awarded to the applicant

Perusal of the relief sought in this O.A. and in O.A. No. 553/92 shows that the same relief has been sought by the applicant in this O.A. also which they had sought in the earlier O.A. without giving any new facts or development, therefore, I would agree with the respondents that the present O.A. is barred by the Principles of res-judicata. In the present O.A. applicant has not given any names of the



juniors to show that he has been discriminated against. In the earlier O.A. no such direction was given by the court to re-engage the applicant within a stipulated period but the relief given to him was, the benefit of Temporary Status as and when he is re-engaged. Applicant would have got fresh cause of action only if he was able to show that after the first judgment, respondents had re-engaged ^{any} ~~the~~ person junior to the applicant without considering his candidature. Since no such case has been made out by the applicant in the O.A., the present O.A. is found to be not sustainable in law in view of the discussion held above.

8. In view of the above, the O.A. is dismissed with no order as to costs.



Member-J

/Neelam/