

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

D.A.No. 1162 of 2003
with
D.A.No. 1163 of 2003
with
D.A.No. 1164 of 2003

Dated: This the 31st day of August, 2004

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

Sarbada Nand Dubey, S/o Late Sri Rama Kant Dubey,
R/o-Village Deoria Dubey, P.O. Bairbana, District Deoria.

...Applicant

By Advocate: Shri K.M. Mishra

Versus

1. Union of India, through its Secretary, Ministry of Railway, New Delhi.
2. Divisional Railway Manager (Karmik), Varanasi.
3. Mukhya Karmik Adhikari, North-Eastern Railway, Gorakhpur.

By Advocate: Shri S.K. Anwar ... Respondents

ALONG WITH

D.A.No. 1163 of 2003

Amma Lal Gupta, S/o Late Sri Ram Nandan Gupta,
R/o-Village Devghat, P.O. Bhatni, District Deoria.

...Applicant.

By Advocate: Shri K.M. Mishra.

Versus

1. Union of India through General Manager, N.E.Rly, Gorakhpur.
2. Divisional Railway Manager (Karmik), Varanasi.
3. Mukhya Karmik Adhikari, North-Eastern Railway, Gorakhpur.

.... Respondents.

By Advocate: Shri K.P. Singh

ALONG WITH

D.A.No. 1164 of 2003

Jagdish Prasad, S/o-Sita Ram,
R/o-Village Algapur, P.O. Pipra Bithal,
District- Deoria

...Applicant

By Advocate: Shri K.M. Mishra

Versus

1. Union of India, through General Manager, N.E.Rly, Gorakhpur.

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2. Divisional Railway Manager (Karmik), Varanasi.
3. Mukhya Karmik Adhikari, North-Eastern Railway,
Gorakhpur. Respondents.

By Advocate: Shri A.V.Srivastava.

O B D E R

By Hon'ble Mrs. Meera Chhibber, Member-J

All the three O.A.s bearing no. 1162/2003, 1163/2003
and 1164/2003 are common in nature, therefore, they ~~have been~~ ^{are being} disposed of by a common judgment. For the purpose of narrating the facts of O.A.No. 1162 of 2003 is being taken as lead case.

2. Applicants have challenged the order dated 02.04.2003 which was passed by the Divisional Railway Manager(Karmik), Varanasi pursuant to directions given by this Tribunal in O.A.No. 1148/2000(page 41). They have further sought a direction to the respondents to consider the claim of applicant for regularisation against the available vacancies by putting their names in the category of authorised Substitutes/Workers in order of their seniority after conducting screening, as has been done in the case of identically situated persons namely Shri Chokat Tiwari and Digvijay Nath Tiwari.

3. It is submitted by the applicant that he had worked initially as Substitute Hemal w.e.f 01.12.1980 to 31.12.1980 for 31 days under the orders of Station Master, Siwan Junction, North-Eastern Railway. Thereafter, again under the order of Station Master, Siwan Jn., North-Eastern Railway he worked as Seasonal Waterman as follows:-

w.e.f. 15.5.1987 to 31.5.1987 for 17 days,
w.e.f. 01.6.1987 to 17.6.1987 for 17 days,
w.e.f. 19.6.1987 to 30.6.1987 for 12 days,
w.e.f. 01.7.1987 to 31.7.1987 for 31 days,
w.e.f. 01.8.1987 to 31.8.1987 for 31 days
i.e. ~~for~~ total number of 108 days. Thereafter, under the orders of Station Master, Deoria Jn. North-Eastern Railway, he worked

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w.e.f. 09.11.1987 to 28.11.1987 for 20 days,
w.e.f. 04.02.1988 to 08.02.1988 for 5 days,
w.e.f. 02.03.1988 to 16.03.1988 for 15 days,
w.e.f. 13.4.1988 to 22.04.1988 for 10 days,
w.e.f. 01.05.1988 to 12.5.1988 for 12 days,

i.e. total number of 62 days as Substitute Waterman. He again worked:

w.e.f. 01.06.1993 to 20.6.1993 for 20 days,
w.e.f. 01.11.1997 to 30.11.1997 for 30 days
w.e.f. 17.12.1997 to 23.12.1997 for 07.days,
w.e.f. 10.05.1998 to 25.05.1998 for 17 days,
w.e.f. 10.06.1998 to 23.06.1998 for 14 days,

i.e. total number of 88 days. All these periods, he claims, have been served by the orders of Station Master as referred to above (Page 16 to 19).

4. Grievance of applicant is that there are three other persons, who worked with applicant prior to 31.12.1980 and thereafter they have been regularised also ignoring the applicant. He has further referred to office order dated 13.5.1987 to show that applicant's name was also figuring at serial no. 58 to work as Substitute Waterman while names of Shri Chokat Tiwari and Digvijay Nath Tiwari were at serial no. 71 and 73 respectively (page 20 at page 28 and 29 of the L.R.). He has further submitted that he was regularly being paid salary for the period when he had worked with the Railways, therefore, it is absolutely wrong to say that applicant had not worked prior to 1980. He has further submitted that accordingly his name ought to have ^{been} placed in the Live Casual Labour Register as per their seniority and then considered for further regularisation. He has further submitted that whether the work was being taken from him with the prior approval of the General Manager, would not be known to the applicant as he is only concerned with the work and payments and since he was being paid regularly, therefore, he has a right to be listed in the Live Casual Labour Register. He has, thus, prayed that the relief may be granted to him.

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4. Respondents, on the other hand, have submitted that period from 01.12.1980 to 31.12.1980 has been found to be not correct on verification ~~and~~ thereafter the working period commencing from 15.7.1987 is unauthorised in as much as applicant had worked for this period without proper sanction/approval of the competent authority, therefore, he is unauthorised casual labour as per Railway Board letter dated 31.12.1980. They have submitted that Station Master or another officer for that matter ~~was~~ not competent to engage casual worker after 31.12.1980. They have further stated that applicant ^{does not figure} at serial no. 58. They have, thus, submitted that D.R.M. had rightly passed the order stating therein the reasons for rejecting the claim of applicant. They have further submitted that applicant has not produced any certificate to show that he had received the payment in lieu of work done by him prior to 31.12.1980. They have, thus, prayed that the D.A. may be dismissed.

5. Applicant filed his Rejoinder Affidavit wherein ~~he~~ ^{was} stated that he ~~had~~ been paid his salary by the Railway Department in lieu of his work for the period prior to 31.12.1980 vide voucher no. 43/527/12/R dated 11.01.1981.

6. Since this averment was made by applicant only in the Rejoinder, I had directed the respondents to clarify the position after verifying from the records. Accordingly respondents have filed their Additional/Affidavit to state that voucher no. 43/527/12/R dated 11.1.1981 does not find place in the register, however, voucher no. 43/527/11/12/ RLT 69/80 dated 01.11.1980 has been recorded in the register, which is related to one 'Sarue Nath Ram' CPJ(Captan Ganj). They have, thus, submitted that the voucher bill as claimed by the applicant is, ~~thus~~, not correct. In support of their claim they have annexed copies of the register to

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substantiate their claim. Applicant on the other hand has controverted the photocopies of the register by stating that the first page relates to the year 1980, therefore, is not relevant whereas on second page of register, after 09.01.1981, voucher bill have been shown on 12.01.1981, which is not possible, therefore, this register's details are irrelevant.

7. Counsel for the respondents in other G. A. also have taken the same grounds but in O. A. No. 1164/2003 they have annexed the Railway Board's letter as well.

8. Admittedly as far as the period prior to 1980 is concerned respondents have stated on verification, it has been found to be incorrect but after 1980 they have not disputed the working of the applicant as claimed by the applicant but the only ground taken is, they were not engaged after taking prior approval of the General Manager as was required to be done. Applicants have annexed their certificates to show that they had worked for different periods as mentioned by them in their G. A.. Correctness of the said certificates has not been disputed by the respondents, therefore, it can easily be concluded that applicants had worked for the periods as mentioned by them in the G. A. at least after 1980. Now whether it was done by the Station Masters at their own level or after taking approval from the General Manager would not even be known to the applicants as they belong to the lowest strata of the society and are interested in work and payment. So long they are given the work and made the payments, they would be happiest person in the world. In any case even if it was required to take prior approval from the General Manager, it was **incumbent** for the respective officers of the Railways, to have complied with those letters. If the Station Master had engaged the applicants without taking prior approval of the General Manager, applicants cannot be made to suffer for the fault of Station Master. Since applicants' working after 1980 has not been disputed, they have a right to be reconsidered for engagement
whereb
as and work is available of course after the names of those.

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persons who are entered in the live casual labour register is exhausted. Counsel for the respondents had taken plea of limitation but it is seen that in the earlier O.A., this Tribunal had already condoned the delay, therefore, we cannot now go into the question of limitation as being argued by the counsel for the respondents. In these O.As., the sole point for consideration before me is, whether applicants can claim their names be entered in the Casual Labour Live Register for regularisation. I am of the opinion that since applicants have already worked for the periods as mentioned above which have not been disputed by the Railways after 1980, definitely applicants can at least have a right to ask that they be reengaged as and when the situation so arises or on availability of vacancies after the list maintained by the respondents of authorised casual substitutes whose names are maintained in the casual labour live register are exhausted, therefore, these O.As. are being disposed off giving directions to the respondents to consider reengaging the applicants after the regular authorised substitutes are regularised whose names are kept in the casual labour live register and the work is still available in accordance with number of days, these applicants have already put in. It is clarified that this shall be subject to availability of work and vacancies after the regular substitute casual labours already entered in Casual Labour live register are exhausted.

9. With the above directions these O.As. are disposed off with no order as to costs.