

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

ALLAHABAD this the 7th day of July, 2011

Present:

HON'BLE MR. D.C. LAKHA, MEMBER- A

ORIGINAL APPLICATION NO. 1390 OF 2006

Ganpati Singh, Son of Shri Dina, Resident of Village Jajeu,
Post Office Fatehpur Sikri, District- Agra (U.P.).

.....Applicant.

V E R S U S

1. The Union of India through General Manager, North Central Railway (N.C.R.) Allahabad.
2. Union of India, through Secretary, Railway Department, Sansad Marg, New Delhi.
3. Varishtha Mandal Karmik Adhikari, North Central Railway, Jhansi.
4. Assistant Divisional Engineer, North Central Railway, Jhansi.

.....Respondents.

Present for the Applicant: Sri K.K. Tiwari

Present for the Respondents: Sri Zafar Moonis




ORDER

(DELIVERED BY HON'BLE MR. D.C. LAKHA A.M.) :


By means of this OA, the applicant has sought for direction in the nature of certiorari quashing the impugned speaking order dated 26.9.2006 (Annexure-1) passed by respondent No.2 and also for a direction to the respondents to appoint the applicant on permanent post as Class IV employee.

2. The brief facts of the case are that the applicant belongs to other Backward Class Community and is by Caste Lodhi. The applicant was initially appointed as Casual Labour Khalasi in the Central Railway Bhopal Division on 15.12.1980. Subsequently from 1.4.1987 he worked as Hot Whether Waterman casually up to 22.7.1991. The applicant was also granted M.R.C.L. status from 5.4.1988 and his name was placed at Sl No.527. According to the applicant he has worked 552 days in the department of Central Railway Jhansi. The applicant also sent several reminders for his permanent appointment for Class-IV employee. He sent Registered letter dated 25.9.2001 but no heed was paid by the respondents. Having received no response from the respondents, the applicant was constrained to file OA No.882/06 wherein a direction was issued by the Tribunal



to consider the claim of the applicant but the representation of the applicant after consideration was rejected by the competent authority. According to the applicant the order passed by the respondent No.2 dated 26.9.2006 was illegal and without jurisdiction. It is admitted case of the applicant that his date of birth is December 1960 and by the time of filing of the OA he had already become overage for any Government service.

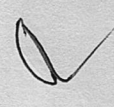
3. The OA filed by the applicant was vehemently contested by the Railway Administration by means of filing the detailed counter affidavit. It is clearly stated that the Railway Board has introduced a policy for regularization of such casual labours who are not on roll but their names exist in the casual live register/supplementary casual register. Certain guidelines/instructions have been issued by the Railway Board vide circular dated 28.2.2001 with a further clarification therein vide letter dated 20.9.2001. It is also stated that in pursuance to the Railway Board Circular/letter, the respondent No.3 issued a letter dated 30.8.2001 alongwith proforma for calling Bio-data of Ex. Casual Labour whose names are still exist in the casual live register/supplementary casual live register, with clear instruction therein that the last date for submission of Bio-data/Application before their depot in-charge up to



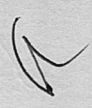
30.9.2001 no such Bio-data will be entertained after the due date i.e. 30.9.2001. It is further stated that all the concerned depot In-charge also been instructed to submit Bio-data/Application of Ex-Casual Labours to the Division Office, Jhansi after verifying from the records upto 1.10.2001. Learned counsel for the respondents stated that ex-casual labourers who fulfilled all the conditions as mentioned in the aforesaid letter and sent their Bio-data through depot in charge duly verified within prescribed date, were called and they were absorbed in Group 'D' post after being found suitable by the nominated screening committee and also in medical examination. He further submitted that in response to letter/notification dated 30.8.2001 the application Bio-data of the applicant has not been received in the office of the respondents through the depot in-charge.

4. The applicant filed rejoinder affidavit but nothing new has been added therein.

5. I have heard Sri K.K. Tiwari, learned counsel for the applicant. None is present for the respondents. However, as per the direction of the Court dated 15.12.2010 the written argument was filed by the learned counsel for the respondents. Having heard the applicant's counsel and



perused the written arguments filed by the learned counsel for the respondents. It is noticed that the applicant has failed to submit any prove that he has submitted the Bio-data wherein it is clearly mentioned in the notification dated 30.8.2001. The applicant utterly failed to attach the postal receipt in this regard. The applicant has also become overage on the crucial date of notification. I have also carefully seen the written arguments wherein it is stated that Bio-data of the applicant has not been received in the office of the respondents through depot in-charge where he worked and as such his Bio-data was not sent to the Divisional Office Jhansi for consideration uptill 1.10.2001. It is also submitted on behalf of the respondents that this Tribunal in its judgment and order dated 2.7.2008 rendered in OA No.32/05 in Mohd. Zaheer & ors. Vs. U.O.I. & ors. has dismissed the OA in a similar and identical situation. Having given my thoughtful consideration to the pleas advance by the counsel, I am firmly of the view that since the applicant has not submitted his Bio-data through Depot In-charge as per direction of the Railway Board, his case could not be considered by the respondents. Since the applicant has himself failed to give his bio-data as per instructions contained in the notification dated 30.8.2001, he is



stopped for challenging the action of the respondents in not considering his case for absorption and regularization.

6. I have gone through the entire pleadings and evidence on record and I am satisfied that Bio-data was not sent to the Depot In-charge and as such the case of the applicant could not be considered for absorption and regularization by the competent authority. The applicant has failed to make out any case for warranting interference. The OA is dismissed. No costs.



Member-A

RKM/