

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A.191 of 1996

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman.
Hon'ble Mr. S. Dasgupta, Administrative Member.

SACHIN CHATTERJEE S/o
Late D.P. Chatterjee,
Vill. Tentulia,
P.O. Sripurbazar,
District: Hooghly.

... Applicant

Vs.

1. Union of India represented
by the General Manager,
Eastern Railway, 17,
Netaji Subhas Road,
Calcutta-1.
2. The Divisional Railway Manager,
Eastern Railway, Howrah.

... Respondents

For the applicant : Mr. A. Bairagi, counsel.

For the respondents: Mrs. Uma Sanyal, counsel.

Heard on : 21.5.1998

Order on : 21.5.1998

ORDER

S. Dasgupta, A.M.

We have heard the ld. counsel for both the parties and perused the pleadings on record.

2. This case has a history of repeated litigation with regard to the applicant's right to be re-engaged as a casual labour. Initially, the applicant filed an original application being O.A.No.955 of 1989 in which it was claimed that he had worked as a casual worker since the year 1964 in different spells till 1972 when he was disengaged. On the basis of his claim that he worked for a total period of about 2200 days, he claimed that he has a right to be re-engaged. The division bench of

this Tribunal disposed of the matter by an order dated 19.7.1993 with the direction that within a period of two months from the date of communication of the order, the respondent-railway shall finalise the screening list and if the name of the applicant appeared in the list, necessary follow up action be taken according to the rules for his re-engagement in the Railway, if he ^{was} otherwise found fit. Alleging that the aforesaid order had not been complied with, the applicant filed a contempt petition, being CCP 119 of 1993 which was disposed of by the order dated 25.11.1993. In this order it was noted that the applicant's physical screening had been completed and his name had been provisionally enlisted in the screening list. The Tribunal held that from this it was evident that sufficient compliance of the order passed by the Tribunal had been made and, therefore, the contempt petition ought to be dismissed. Thereafter, the applicant filed a fresh original application bearing no.O.A.1327 of 1994, seeking a direction upon the respondents to give him appointment in terms of the order of the Tribunal dated 19.7.1993 in O.A.955 of 1989, since the applicant had come out through a screening list. This O.A. was disposed of by the Tribunal by an order dated 10.7.1995 and the following direction was given :

"However, considering the facts stated above and on hearing the ld.counsel for both the parties, we dispose of this application with the order that within three months from the date of communication of this order, the respondents shall find out whether any of the persons junior to the applicant in the screening list has been given appointment or not and in case any appointment has been given to his junior(s), the applicant shall be immediately given appointment. If, however, no appointment is due to the applicant in terms of the order of this Bench of the Tribunal, then within the above mentioned period of three months, the respondents shall pass and communicate to the applicant, a speaking reply. In that case, the applicant shall thereafter be at liberty to file an original application before this Bench of the Tribunal, if so advised."

3. It appears that thereafter the respondents passed a speaking order, a copy of which is at annexure 'G' to the application and

of

is dated 12th October, 1995. It appears therefrom that the stand taken by the respondents is that in Howrah Division, none from pre-81 Supplementary Live Casual Labour Register in the Civil Engineering Department to which the applicant belongs, has been engaged so far and hence, the question of engaging any of his juniors did not arise. It was further stated in the said order that the applicant's case for re-engagement would be considered in his own turn when engagement from pre-81 Supplementary Live Casual Labour Register would be taken up.

4. The respondents have not filed any reply to the present O.A. Mrs. Uma Sanyal appeared for the respondents and we have heard her oral submissions made on the basis of the speaking order passed by the respondents.

5. From the various decisions already rendered, it is now fairly clear that respondents have not disputed the fact that the applicant did work prior to 1981 under the Railways as a casual worker and he had rendered a total period of 1806 days as such. This position appears from a letter dated 12.9.1972 which was addressed by the Assistant Engineer, Azimganj, to the Divisional Personnel Officer, Eastern Railway, Howrah. A copy of this letter is at annexure 'A'. The authenticity of this letter has not been disputed as no reply has been filed by the respondents. The only ground on the basis of which the respondents have not re-engaged the applicant so far is that none from pre-81 Supplementary Live Casual Labour Register in the Civil Engineering Department to which the applicant belonged has been engaged so far in Howrah Division. We are, however, of the view that the direction of the Tribunal contained in the order dated 10.7.1995 in O.A.1327 of 1994 did not restrict the consideration of the applicant on the basis of appointment of any junior only from pre-81 Live Casual Labour Register. If any person having worked for less than 1806 days and borne on any register from pre-1981 or post-1981 had been engaged, subsequently, the applicant ought to be engaged


W.R.

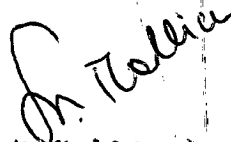
as a casual worker by virtue of the aforesaid direction of this Tribunal. We are of the view that ^{any member as to} whether or not any junior has been appointed from post-1981 list of Live Casual Labour Register, has been carefully avoided ^{by} ~~by~~ issuing the speaking order dated 12.10.1995.

6. In the facts and circumstances of the case, we are of the view that the application deserves to be allowed as we feel that the applicant who has gone through several rounds of litigation and has been persistently following his legitimate claim, cannot be denied justice in such a perfunctory manner.

7. We, therefore, dispose of this application with a direction to the respondents to re-engage the applicant against any available vacancy in the division ^{in which} the applicant had been earlier working in case any person from any of the Live Casual Labour Registers ^{in the division and} having worked for less than 1806 days was re-engaged on casual basis. If no vacancy is immediately available, the applicant shall be appointed against the next available vacancy. The applicant shall also be considered for regularisation in his own turn in accordance with the departmental instructions in this regard.

8. No order is made as to costs.


(S. Dasgupta)
Administrative Member


(S. N. Mallick)
Vice-Chairman

r.s.