

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JODHPUR BENCH : JODHPUR

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Date of order : 24.05.1999

O.A. No. 133/1999

with

M.A. No. 100/1999

Farida son of Shri Deen Mohd. r/o. Bhani Dhora, Ward No. 22,
Ratangarh District Churu, at present working as Mason under the
Assistant Engineer, Northern Railway, Sahadulpur District Churu.

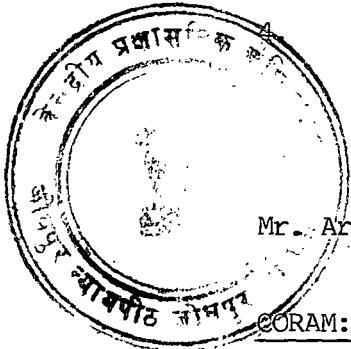
... Applicant.

v e r s u s

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Bikaner.
3. The Divisional Personnel officer, Northern Railway, Bikaner.
The Assistant Engineer, Northern Railway, Sahadulpur District Churu.

... Respondents.

Mr. Arun Bhansali, Counsel for the applicant.


CORAM:

Hon'ble Mr. Gopal Krishna, Vice Chairman.

Hon'ble Mr. Gopal Singh, Administrative Member.

O R D E R

(Per Hon'ble Mr. Gopal Krishna)

Applicant, Farida, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondents to implement the order passed by a Division Bench of this Tribunal vide its order dated 3.7.92 at Annexure A/1.

Gopal

2. We have heard the learned counsel for the applicant.

3. The facts giving rise to this application are that the applicant had filed a civil suit for declaration in the Court of Munsif, Rajgarh, District Churu, which was transferred to this Tribunal, which after hearing the parties had passed the following order :-

"We are of the opinion that the justice requires that they should now be treated as Mason/Painter on the post on which they were appointed earlier before 14.4.84 and they should be allowed to continue on that post of Mason/Painter from today onwards. However, this arrangement shall be a stop gap arrangement and the respondents are directed to take the trade test according to the rules and to allow the applicants to appear in the test. The applicants will not be entitled to get the back wages of the post of Painter/Mason from 14.4.84 to this date as they have not worked on that post. However, from today they will be treated as Painter/Mason and they will be entitled to get the salary of the same post of Mason/Painter and they will not be reverted unless three opportunities have been given to them to qualify in the trade test as held by the Full Bench of the Tribunal in Jetha Nand vs. Union of India (Full Bench Judgements (CAT) 1986-89, page 353). Period between 14.4.84 to this date shall be considered notional for the purpose of fixation of pay as the period spent on the post of Mason/Painter and pay should be fixed accordingly. No order as to costs."

4. The grievance of the applicant is that the aforesaid order was not complied with as no trade test was held pursuant thereto. The applicant was trade tested on 23.9.97. Thereafter, no further steps were taken by the respondents for implementing the order aforesaid. It is now stressed on behalf of the applicant that the action or inaction of the respondents in not implementing the order passed by the Tribunal on 3.7.92 is absolutely illegal. It is borne out by the averments made in the application that the applicant has already been subjected to trade test as directed by the Tribunal. The matter which has been agitated in this application had already been adjudicated upon by this Tribunal vide its order at Annexure A/1 dated 3.7.92. The applicant has reagitated the same matter despite the fact that the implementation of the order passed by this Tribunal in the earlier matter could have been enforced by way of filing a contempt petition against the respondents. No such contempt petition was admittedly filed by the applicant. This subsequent application by the same person regarding the same

CKW/H

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matter is, in our view, not maintainable.

5. In the result, the O.A. and the connected M.A. No. 100/99 stand dismissed at the stage of admission.

Gopal Singh
(GOPAL SINGH)
Adm. Member

Gopal Krishna
(GOPAL KRISHNA)
Vice Chairman

cvr.

Part II and III destroyed
in my presence on 5/7/06
under the supervision of
Section Officer (f) as per
order dated 16/5/06

Section Officer (Record)

Cops of order sent
to Sh. Arun Bhawali Adi
Copies of order oA, MA
or/ang with Petition Pages 1 to 96
(MA) 84 Regd Ad
Vidh No 164 to 168
dt 31-5-99.

in
58/1799

AP's attached
in third set
11/6/06