

7/7
2/8

CENTRAL ADMINISTRATIVE TRIBUNAL

JODHPUR BENCH, JODHPUR

Original Application No. 227 of 2003
Date of Decision : this the 4th of June, 2004

Hon'ble Mr. G.R. Patwardhan,
Administrative Member

Deepa Ram S/o Late Sh. Lalu Ram,
Aged about 48 years, by caste Siyag (Jat)
Village Palana, Tehsil and District Bikaner,
At present working on the post of Engine Depo
Khalasi, North Western Railway, Bhagat Ki Kothi,
Jodhpur (Raj)

.....Applicant.

[By Advocate Mr. Mahipal Rajpurohit, for applicant]

vs.

1. Union of India through the General Manager
North Western Railway, Jaipur (Raj.)
2. Divisional Railway Manager,
North Western Railway,
Jodhpur.
3. Divisional Personnel Officer
North Western Railway,
Jodhpur.

.....Respondents.

[By Advocate Mr. Vinay Jain for the respondents]



Order
[By the Court]

This is an application by Deepa Ram Jat seeking specific reliefs as listed in paragraph 8 against the Union of India through the General Manager, North Western Railway, Divisional Railway Manager, Jodhpur and the Divisional Personnel Officer, Jodhpur. It is the admitted case of the applicant that – (a) he was appointed as a Casual Labour on 13.3.1977 and was removed from service after 121 days of joining i.e. 11.11.1977;

(b) that some time in 1998, the respondent carried out a screening of non working Casual Labourers for Group 'D' posts and offered him appointment of Engine Depot Khalasi, which he joined on 23.12.1998; (c) that the letter by which the offer was made (Annex.A/1) at Sl.No. 54 indicates the name of the applicant and mentions that he was appointed initially on 13.3.1977; (d) that this indication of the date of 1977 should be construed as his date of initial appointment and that he should be paid wages from the same date till his joining in 1998.

2. In paragraph 5 of his application, it is maintained that applicant's initial appointment in 1977 was terminated after 121 days without giving any notice or hearing and thus that itself is illegal. It is further submitted that by taking him back on duty in 1998, the respondents have only acknowledged continuation of his service from 1977 and thus, he is entitled to receive back the wages and other consequential benefits. The applicant has also cited a judgement of Hon'ble the Supreme Court in State of U.P. and Anr. Vs. Brij Nath Misra reported in AIR 1997 SC 2393 in his favour.



3. Detailed reply has been filed by the respondents where it is essentially maintained that - (a) the application is time barred since what is under challenge, is a letter of 9.10.1998; (b) the applicant was never appointed on 13.3.1977 but was merely engaged as a Casual Labour and that the screening held subsequently in 1998 was only to facilitate those who were

without any employment and had worked earlier to be taken on provisional panel; (c) the applicant has not worked between 1977 to 1998; (d) if at all the applicant had a grievance against his non retention in 1977, he should have agitated the matter much earlier before the appropriate forum and (e) the applicant has not shown how or under which law, he is entitled for back wages.

4. Learned advocate for both the parties have been heard and with their consent the matter is being disposed of at the admission stage itself.

5. What is not in dispute is the following :-

- (a) The applicant was a Casual Labour.
- (b) He worked only for 121 days and dis-continuation after the said period was never agitated.
- (c) Between 1977 to 1998, the applicant did not work under the Railways.
- (d) Even after he joined in December 1998 under the respondents, he failed to take up the matter at the appropriate forum for redressal of his alleged grievances.



All these make it difficult to accept the contention of the applicant that this O.A. is maintainable.

6. Coming now to the merits; the judgement cited by the applicant and referred to above concerns an Ayurvedic Medical Officer, who was appointed on ad hoc basis through a process of screening in 1983. He remained unauthorisedly absent for five years and thereafter on an application made by him in 1989, he was permitted to resume duty with a condition that his unauthorized absence from duty was to be treated as break in service. Subsequently a selection committee constituted to screen the candidates appointed on ad hoc basis held that he was unfit for regularization. Accordingly, his appointment was terminated. It was challenged before the High Court which held that the subsequent joining in 1989 was a fresh appointment and so the termination was bad in law. This was challenged by the State before the Hon'ble Supreme Court who held that permission to re-join in 1989 was not a fresh appointment and that the committee duly constituted under the rules, which found the individual not fit to be regularized, was within its limit and the subsequent decision of the Government terminating his services could not be interfered. It, therefore, allowed the appeal and dismissed the Writ Petition of Brij Nath Misra.



It may be seen, therefore, that the case before the Tribunal is distinguishable – the applicant was a Casual Labour whose services were dispensed with after 121 days. He was taken back again as a Casual Labour along with many others who had put in some days as Casual Labour. The subsequent appointment was also not a regular appointment and in this

respect the judgement of Hon'ble the Supreme Court, has no application in the instant case.

7. Under head 'Limitation' - which is para 3, explanation offered for the delay in approaching the Tribunal, it is mentioned that in the year 2003, the applicant preferred a Writ Petition before Hon'ble the High Court which on 3.9.2003 observed that the applicant has to file a O.A. before the Tribunal first. However, these observations can in no way condone the delay that has already occurred because of non pursuing the remedy before the appropriate forum at the right time.



It is also not clear if the applicant had filed petitions before other Railway Authorities and if so the result thereof.

8. There is, therefore, no merit in the application, which is dismissed with no orders as to costs.


[G.R.Patwardhan]
Adm.Member

jrm

Copy received
[Signature]
7/6/04.

Copy Received
[Signature]
7/6.

Part II and III destroyed
in my presence on 25/10/13
under the supervision of
section officer () as per
order dated 18/10/13
[Signature] 25.10.2013
Section officer (Records)