

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH
O.A. No.182/2004

Lucknow this the 23rd day of Nov., 2004.

HON. SHRI M.L. SAHNI, MEMBER(J).

1. Jang Bahadur son of Shri Kandhai Lal resident of Village Niyamatpur, Post Mustafaad Thana Jarwal, District Behraich.
2. Ram Gopal, son of late Sri Baccha Ram Pandey, resident of T-1-D Badshah Nagar Railway Colony, Lucknow.
3. Ram Braksh, son of late Sri Lochai, resident of Bandariyabagh Railway Colony, Lucknow.

Applicants.

By Advocate Shri A.K. Shukla.

versus

1. Union of India through Divisional Railway Manager, N.E. Railway Lucknow.
2. General Manager, N.E. Railway, Gorakhpur.
3. Sahayak Parichalan Prabandhak, N.E. Railway, Lucknow.

Respondents.

By Advocate shri Deepak Shukla for Shri Prashant Kumar.

O R D E R

This O.A. has been filed jointly by the three applicants praying for directions to the respondents to consider them for regularisation in service and include their names in the list Anneuxre-4.

2. By way of interim relief, they had requested for directing the respondents to assign duties on the posts held by them and to pay them salary and other consequential benefits, from which it could be presumed that the applicants were no more in the employment of the respondents. This fact is also evident from the addition made in the synopsis prefixed with the O.A whereby it

is stated that all of a sudden the services of the applicants have been terminated by oral orders on 26.4.2004, hence this O.A. Nothing to this effect has been pleaded in the O.A. whose case initially was that they had every right to get their services regularised as per the principles laid down by the Apex court.

3. I have heard the learned counsel for the parties and have given my thoughtful consideration to ^htheir pleadings, Case law as referred to on behalf of the Applicant has also been carefully examined.

4. The case of the applicants, precisely stated, is that they had been working as Class IV employees with the respondents since 1976 and 1979 ^{respectively} and have worked for more than 240 days by rendering continuous service for periods 5640 days in the case of applicant No.1 as per Annexure No.1. Since their case for regularisation was not considered by the respondents, therefore, O.As No. 696/87 and 697/87 were filed vide order dated 13.5.1992 (Annexure No.2) & directions were issued for considering ^{regularisation of} their services. It is alleged that despite passing the order Annexure No.2, by the Allahabad Bench of this Tribunal, the respondents did not regularize ^hthem in service, to which they applicants are legally entitled in view of the settled position of law as laid down in Inderpal Yadav vs. U.O.I. and others (1985 SLR P. 138). Though, according to the applicants, that in compliance of order of the Tribunal (dated 13.5.1992), they were attaced with the office of respondent No.3 ^{on 3.2.03. vide letter} which ~~is~~ ^{as alleged} dated 22.3.1993 ^(Annex 3) the applicant No.1 was given back duty, w.e.f. that date and not on 3.2.2003/ which is the date of attestation of the copy of the letter (Annexure

3) ^{This also} which contradicts his claim of having worked w.e.f. 1.1.93 to 31.12.1996 for 1461 days and that he continued working upto 31.1.2003 as reflected in Annexure 1.

5. As against the case of the applicants, it is averred on behalf of the respondents ^{-h-} ~~that~~ the O.A. besides being time-barred, is also liable ^{-b-} to be rejected on merits. According to them, the claim of the applicants was rejected in 1993 on the grounds that applicant No.1 had purjured while, the applicants 2 and 3 were illiterates. There is no statement of working days in respect of applicants No. 2 and 3 of their having worked as daily wagers in the N.E. Railways. Without disputing the order dated 13.5.1992 passed by the Tribunal in O.A.S No. 696 and 697 of 1987, they have submitted that ^{applicant No.1 was re-engaged on} daily wages, in compliance of the said order but during screening test, ~~held in~~ 2003-2004, it was found that the applicant No. 1 had forged his card indicating working days, while applicants No.2 and 3 did not fulfil the requirement of minimum qualifications as prescribed in the circular dated 4.12.1998 (Annexure CR-1). ^{Respondents} Their result was withheld. They have produced the relevant record in original to show manipulation therein. ^{the} Earlier screening test held in 1997 had to be cancelled for some administrative reasons.

6. From the perusal of the ^{service record} ~~card~~, it is found that ^{of} all the three applicants, working record of applicant No.1 Jang Bahadur ^{only} is annexed with the O.A, copy of which is Annexure No.1. The documents purported to be the service-book for casual labours in respect of said Shri Jang Bahadur, copy of which is also placed on record with the Rejoinder, according to the respondents, is forged record and to substantiate their

allegation in this respect, they have produced the original Service Book for my perusal. A prima facie comparison of the copy of the record, as placed on record ^{by the applicant} and the original ^{thereof} produced by the respondents, makes it abundantly clear that the copy of the record as relied upon by the applicant ^{No.1} is not the true copy of the original one. There is rubbing and over-writing which shows tampering with the original record. Furthermore, copies produced by the applicant No.1 of such record bears official stamp of some authority purported to be initialled/signed by the first appointing Supervisor whereas the original record does not bear any such stamp or initial of the authority concerned. These facts clearly prove that the applicant No. 1 has relied upon the documents which were found to be fake and forged at the time when he was screened ^{by} the ^{authorities} after he was re-engaged vide Annexure -3 which is dated 22.3.1993 and not dated 3.2.2003 as alleged by the applicant No. 1 in his O.A. The applicant No.1. has also concealed the fact of his screening in his O.A and thus, from the established facts, it stands proved that ^{he} ~~he~~ has not come with ^{clean} hands to the Tribunal to ask for the relief in this O.A. Regarding applicants No. 2 and 3, no material has been placed on record to prove ^{Substantials} their claim for regularisation. ~~According to the respondents, they did not fulfil the eligibility condition regarding the qualification as prescribed vide Annexure CR-1. According to the respondents, they did not fulfil the eligibility condition regarding qualification as prescribed vide Annexure CR-1 which is letter dated 4.12.98, which, even after~~ ^{clear} qualification vide letter

dated 13.10.97 does not entitle the applicants 2 and 3 to be selected for group D post in case they did not possess middle class pass qualification. Copy of the letter dated 14.9.99 has been produced after arguments and it refers to the letter dated 4.12.99 by which minimum educational qualification for recruitment to Group D post was prescribed as class VIII pass. Clarification issued later on is to the effect that this qualification ^{would be} ~~was~~ applied only to recruitment undertaken after 4.12.1998 but where selection process had already been undertaken before 4.12.98, the selection might be finalized ^{without} ~~without~~ insisting on the qualification of class VIII pass.

7. In view of these instructions, applicants 2 and 3 now cannot be considered for regularization and so far as the applicant No.1 is concerned, since he was found guilty of forging of the record by the authorities, during screening test, in 2003-2004, therefore, he was rightly refused regularization by the respondents. The case-law as relied upon by the applicants in this case does not apply to the facts of the present case, hence I find the O.A. as bereft of any merit. The O.A. is accordingly dismissed. Before parting with the order, it is directed that a copy of the Service-Book, the original of which has been produced by the respondents, be annexed with this order so as to bring forgery, ^{allegedly} committed in this case, on record. No order as to cost.


(M.L. SAHNI)

Member (J)

S.A.