

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

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O.A. No. 6/1989

Mahabir

Applicant

versus

O.A. Northern Railway
and others

Respondents.

Shri A.K. Dixit
Shri V.K. GoelCounsel for Applicant
Counsel for Respondents.CORAMHon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Adm. Member.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was engaged as casual labour under Permanent Way Inspector N. Railway, Safipur, Distt. Unnao and he was again engaged as casual labour under P.W. I Hardoi and worked continuously for about 9 months without break. While performing duties at Misrikh, the applicant met with an accident on 21.5.87 and he was hospitalised. One finger of foot was totally cut off due to the accident and he received other injuries in connection with which he remained in the Railway Hospital for about three months. He received full wages during the period he was hospitalised and he joined his duties in August, 1987. After being fit from the hospital he was sent to Suratgarh (Rajasthan) where he worked upto 3.1.88 and again worked under AEN Hardoi from 19.1.88 to 30.1.88 and paid wages. Thereafter,

he was not allowed to work. According to the applicant, as he has worked for more than 120 days, he is entitled for regularisation and had attained temporary status. The applicant was medically examined and was declared medically fit but even then appointment was not given to him despite representations after representations moved by him. Then he approached the Tribunal.

2. The respondents have opposed the application stating that he received simple injuries and was examined and declared unfit and was declared fit for category 'C'-1 and C-2 and as such he was not entitled to any compensation. It has been stated that he has been taken back on duty in the lower category but on behalf of the applicant it has been contended that he has been taken on lower category and the entire period be treated as on duty. In this connection he made reference to para 304 of the Railway Establishment Code:


"A railway servant who fails in vision test or otherwise becomes physically incapable of performing the duties of the post which he occupies but not incapable of performing other duties, should not be discharged forthwith but should be granted leave in accordance with rule 522. During the period of leave so granted such a railway servant must be offered some alternative employment on reasonable emoluments having regard to his former emoluments.

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Further, the extraordinary leave portion of the leave granted in accordance with rule 522 should not be cut short purely on account of his refusing the first offer which is made during the period of his leave."

3. In ~~the~~ case the applicant was a casual labour and is entitled to the benefit of para 304 of Railway Establishment Code and had attained the temporary status, the respondents shall consider his case for treating the period as Extraordinary leave and let a decision in this behalf be taken within a period of 3 months. In case the applicant is entitled to leave, the same may be granted to him and in case he is ^{not} entitled of being a railway servant, his services will be deemed to be fresh service.


Admin. Member.


Vice Chairman.

Shakeel/

Lucknow: Dated 26.8.92