

**Central Administrative Tribunal, Lucknow Bench,**

**Lucknow**

**Original Application No. 357/2008**

This the 16<sup>th</sup> day of April, 2010

**Hon'ble Dr. A.K. Mishra, Member(A)**

Abdul Malik Khan, Aged about 55 years, S/o late Sri Abdul Aziz Khan, R/o LD-1, Terhi Pulia, Alambagh, Lucknow.

.....Applicant

By Advocate: Sri Praveen Kumar

**Versus**

1. Union of India through the G.M., N.R., Baroda House, New Delhi.
2. The Chief Works Manager, Northern Railway, Loco Workshop, Charbagh, Lucknow.

.....Respondents

By Advocate: Sri S. Verma

**ORDER**

This application has been filed against the order dated 19.2.2008 of respondent no.2 in which the applicant's claim for counting his services as casual worker for fixation of his seniority was rejected.

2. His grievance is that he had worked as casual Khalasi between 20.10.1974 to 8.12.1976 off and on for a period of 550 days, but his services were terminated on the ground that there was no sanctioned post against which he could be engaged. He filed O.A. no. 483 of 1988 before this Tribunal in which a direction was given to the competent respondent authority to consider the case of the applicant for re-employment and regularization in accordance with rules. If he was found eligible, he should be re-employed and his services should be regularized. Accordingly, the applicant's case was considered and he was appointed as Khalasi on 30.11.1989, but the benefits of his past service as a casual worker was not allowed, neither was he given the

benefit which some of his juniors got. He represented for such benefits on 24.2.2005 and thereafter filed O.A. no. 623 of 2005 in which respondent-authorities were directed on 16.8.2008 to pass a speaking order on his representation dated 20.4.2005. The impugned order has been passed on 19.2.2008 following such directions and the respondents have rejected the claim of the applicant saying that they had rendered strict compliance to the directions of this Tribunal and re-employed him.

3. At the time of hearing, the learned counsel for the applicant submits that the facts which were taken into consideration by this Tribunal in passing its judgment dated 27.2.1989 in O.A. no. 483 of 1988 had been ignored in the impugned order. It was the grievance of the applicant that his juniors had been regularized which prompted this Tribunal to pass its order dated 27.2.1989. This judgment should have been implemented in true spirit of its findings. Therefore, the present Application has been made with a prayer that the past service of the applicant in the capacity of casual worker should be counted towards service benefits and he should be paid wages for the period he was dis-engaged alongwith interest.

4. The learned counsel for the respondents drew my attention to the operative part of the judgment dated 27.2.1989, which is extracted below for better appreciation:

*"Consequently, the impugned order dated 16.1.88 of the Chief Works Manager, Northern Railway Workshop, Lucknow is quashed and the appropriate Railway authorities are directed to consider the case of the applicant for re-employment and regularization in accordance with the rules and if found eligible, re-employ and regularize the services of the applicant. The applicant shall also be informed of the reasoned decision by the appropriate authority. We further direct that the foregoing shall be done within three months from the date of this order. There will be no order as to costs."*

The directions to the respondent-authorities were to consider the case of the applicant for re-employment and regularization in accordance with rules. It was not a direction for reinstatement, or to confer any consequential benefits. In compliance of the directions, the case of the applicant was considered and he was given fresh appointment on 30.11.1989. He had been dis-engaged from the casual employment because of non-availability of work, but subsequently he has been given fresh employment on regular basis;

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therefore, there was no case for giving him seniority from a previous date. As regards pensionary benefits claimed by the employee, it is stated that he is still in service and grant of pensionary benefits at this stage is pre-mature. When he would retire from service, his pensionary claims would be settled according to the provisions of Railway Servants (Pension) Rules, 1993. According to the learned counsel for the respondents, there was no infirmity in the impugned order so as to necessitate any interference from this Tribunal.

5. I find that there is substance in the arguments canvassed for the respondents. The applicant had been offered fresh regular appointment following the directions of this Tribunal. He had accepted the appointment order and joined on the post without protest. Of course, subsequently, he made a representation to give him seniority from the date some of his juniors were given regular appointment. Since there was no specific direction in O.A. no. 483 of 1988 that he should be granted seniority from the date some of his junior casual employees were regularized, it would not be correct to justify his claim basing on the judgment of this Tribunal. The plea of his juniors having been regularized had already been taken in O.A. no. 483 of 1988 and after considering the plea, this Tribunal had issued specific directions, which had been complied with. In the circumstances it would not be justified to consider the same plea again.

6. In the result, the O.A. is dismissed. No costs.

  
**(Dr. A.K. Mishra)**  
**Member (A)**

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