

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

Original Application No. 427 of 2003.
this the day of 29.8.2003.

HON'BLE SMT. MEERA CHHIBBER, MEMBER (J).

Jai Shankar Prasad,
Son of Late Sohan Lal,
Resident of T.7.F, Traffic Railway Colony,
Pratapgarh.

2. Achchhey Miyan,
Son of Sri Bhalloo,
Resident of T.7.C, Paschimi Railway Colony,
Pratapgarh.

3. Chhotey Lal,
Son of Sri Jai Karan,
Resident of Parasuram Pur, Post Jahnaipur,
Sadar, Pratapgarh.

4. Ram Kumar Patel,
Son of Late Bali Karan,
Resident of Parasuram Pur, Post Jahnaipur,
Sadar, Pratapgarh.

5. Onkar Nath,
Son of Kaushal Nath,
Resident of 1-85/A, Railway, West Sahodarpur,
Pratapgarh.

6. Kripa Shankar,
Son of Raja Ram,
Resident of East Sahodarpur,
Pratapgarh.

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... Applicants.

By Advocate:- Sri Vsihal Verma.

Versus.

Union of India, through
General Manager, Northern Railway,
Baroda House, New Delhi.

2. Divisional Railway Manager,
Lucknow Division Northern Railway.

3. Senior Persoanl Officer,
Northern Railway,
Lucknow.

Chief Health Inspector,
Northern Railway,
Pratapgarh.

... Respondents.

By Advocate:- Sri Ajmal Khan.

O R D E R (ORAL)

BY SMT MEERA CHHIBBER, MEMBER (J).

By this O.A. six applicants have sought a direction to the respondents to consider the case of the applicants for inclusion of their names in panel and re-engaged the applicants in service with full

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back wages from the date when the fresh hand has been engaged in pursuance of the D.O. dated 21.5.2003 and or to pass a direction to the respondents to regularize the services of the applicants with all consequential benefits.

2. The facts as alleged by the applicants are that the applicants no. 1 to 6 were engaged as daily wager on different dates which is evident from Annexure-1. He has further submitted that in the year 1992 screening was held but none of the applicants were Empanelled. Similarly, in the year 1994 their names did not find place in the final panel though two of the applicants were sent or screening in the year 1994. It is evident from page-21 (Annexure-2). It is submitted by the applicants that on 21.5.2003 an order was issued from the office of Divisional Railway Manager , Lucknow for screening of the casual labours and since all the applicants are eligible, ~~and~~ they applied for screening in pursuance of order dated 21.5.2003 (page-25, Annexure-5). Moreover, Railway Board has also advertised the vacancies on 28.6.2003 and perusal of (Annexure-6) shows that about 17,348 vacancies are lying vacant but inspite of this, the case of the applicants has not been considered by the respondents. Being aggrieved applicants sent a representation dated 16.7.2003 to the Divisional Railway Manager (Annexure-7) page-27 but since no action ^{was} taken by the respondents, they have ^{no} other option but to file this O.A.



3. Counsel for respondents submitted that as per applicants own averement all the six applicants had ~~was~~^{worked} upto the year, 1994 and were not engaged thereafter. However, two applicants were called for screening in the year 1994 but ~~was~~^{were} not selected therefore cause of action had arisen in the year 1994. He has also invited my attention to the various documents annexed by the applicants in their O.A. to show that the applicants had worked merely for 15 days or 38 days which itself shows that applicants ~~had~~ not completed 120 days. Moreover, he also pointed -out that even in the body of O.A. , it is no where mentioned that applicants have completed 120 days. He has thus submitted that there is no merit in the O.A. and this O.A. needs to be dismissed on the ground of limitation as well as on merits. Learned Counsel for respondents submitted that representation filed on behalf of applicants have not been acknowledged by any authority and it seems ^{they have} ~~to~~ been prepared just to meet the limitation.

4. Counsel for applicant relied on the judgement given by the Hon'ble Supreme Court in the case of Union of India & Others Vs. Basant Lal & Others reported in 1992-1 SVLR(L)-76.

5. I have heard both the counsel and perused the pleadings as well.

6. It is seen that in the O.A. applicants have no where averred that they have completed 120 days. They have submitted that two applicants were called for screening in the year 1994 but were not



finally empanelled which according to the applicant shows that these two applicants namely Jai Shankar Prasad and Achchhey Miyan had completed 120 days. Even if, it is assumed that two persons ^{were} called for screening in the year 1994, the cause of action had arisen in favour of these applicants in the year 1994 itself. Since they were not finally empanelled ^{should} therefore these applicants have approached ~~to~~ this Tribunal within one year as per the limitation prescribed under the A.T. Act, 1985.

7. I have also seen the representations alleged to have been given ^{by} the applicants. In the said representations though, it is addressed to Divisional Railway Manager, Norther Railway, Lucknow for regularisation but neither applicants have ~~been~~ given particulars as to where they have worked and for which period they have worked and under whom they have worked nor they have given any ^{other} details. Therefore, these vague representations ~~which~~ cannot be considered ^{any} nor ^{can} reply ~~can~~ be given on these ^{vague} representations. Even otherwise, it is seen that there is no acknowledgment ^{on} the said representations ^{therefore no reliance can be placed on} these representations ^B

8. Counsel for applicant had relied on the Notification issued on 28.6.2003 in the Employment News, whereby number of vacancies were advertised to be filled from the open market. He had thus, ^{that} submitted since vacancies are available in the Railway and the applicants had already worked even ^{for} some numbers of days ~~but~~ ^{would} they have better claim ~~even~~ ^a than

those candidates^{who} come from open market. Counsel for applicants has submitted that pursuant^{to} to said notification, they^{had} only given representation dated 16.7.2003 to the Divisional Railway Manager, Northern Railway, Lucknow. It is seen from perusal of Annexure-6 that the last date for receiving the application in pursuance of this notification is 28.7.2003 but since, I find that the application given by the applicants is not in proper format nor addressed to proper authority therefore, I give liberty to the applicants to make proper applications to the Appropriate Authority as mentioned in the notification by giving full particulars as required in the notification alongwith their experiences if any, ^{if} ~~they~~ ^{have} already worked. They may do so within a period of two weeks from the date of receipt of the copy of this order and incase, they give their applications to the concerned authority within ~~the~~ said period of two weeks, respondents ~~are~~ ^{shall} consider their candidature also, in accordance with Law and instructions on the subject alongwith other candidates who might have applied for the post in pursuance of notification dated 28.6.2003 (Annexure-6).

9. With the above directions this O.A. is disposed of at admission stage ^{is kept} with no order as to costs.


MEMBER (J).

Dated:-29.8.2003.
Lucknow.
Amit/-