

**Central Administrative Tribunal, Lucknow Bench, Lucknow**

**Original Application No. 291/2009**

This the 15th day of March, 2010

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

Harish Kumar Singh, Aged about 49 years, S/o Sri Haushila Bux Singh, R/o Village Ahmamau, Post Arjunganj, District Lucknow presently residing at Jugul Vihar Colony, Fazullaganj-II, Sitapur Road, Lucknow.

.....Applicant

By Advocate: Sri S.K. Singh

**Versus**

1. Union of India through Secretary, Railway Ministry, Baroda House, New Delhi.
2. The DRM, N.R., Lucknow.
3. Assistant Divisional Officer Northern Railway, Lucknow.

.....Respondents

By Advocate: Sri Praveen Kumar for Sri M.K. Singh

**ORDER**

The learned counsel for the applicant submits that directions of this Tribunal as well as High Court have not been taken into consideration and he has not been re-engaged as Casual labour, nor his case has been taken up for regularization. His case was earlier rejected on the ground that he had not performed more than 40 days of work as a casual labour and as such was not entitled to be considered for regularization. According to him, from the records filed by him as Annexures RA-2 to RA-6 to the Rejoinder Affidavit, it was established that he had worked for more than 1163 days and as such was entitled to the benefit under the relevant scheme of regularization of the Railways.

2. The learned counsel for the respondents submits that the applicant including 187 others had initially filed O.A. no. 227/88 in which the name of the applicant finds place at sl. No.20 in the array of the parties. This O.A. was



not pressed by a number of applicants including the present applicant and no liberty was given to the applicant to file a fresh O.A. Thereafter, the applicant filed O.A. no. 6 of 1998 in which this fact about a decision having been made in the previous O.A. was concealed. In this O.A., a direction was issued to the respondent-authority to verify the working days of the applicant. Against which, Writ petition no. 842 (S/B) of 2007 was filed before High Court by the respondent-authorities. The Writ petition was rejected with the observation that the claim of the applicant in respect of having worked for more than 120 days as envisaged in the scheme of regularization of the Ministry of Railways should be verified and action taken accordingly. The claim of the applicant for appointment as casual labour and regularization was rejected by order dated 25.10.2007 of respondent no.3 (Assistant Personnel Officer of Northern Railway, Lucknow). A contempt petition was filed by the applicant before Division Bench in which order dated 25.10.2007 was also produced. The CCP was ultimately dismissed on the ground that the applicant had not succeeded in substantiating his claim before the competent respondent-authority. However, he was granted liberty to file a fresh O.A. incase he was aggrieved with the said order. Accordingly, the present O.A. has been filed.

3. It is further argued that, in the present application, the applicant has not specifically challenged the order dated 25.10.2007. In absence of challenging that order, it is not possible for him to claim regularization and other benefits which are contrary to the decision of the railway-authority in the aforesaid order. This plea has been taken in the Counter Affidavit as well as in the Supplementary Counter Affidavit, but the Application has not been amended sofar. Therefore, according to him, this Application is not maintainable.

4. Secondly, he submits that other documents namely Annexure RA-2 to RA-6 to the Rejoinder Affidavit filed by the applicant are under examination whether they are genuine or nor. At the moment, the respondents are holding

~~the~~ firm on the view expressed by them in the rejection order dated 25.10.2007 of Assistant Personnel Officer, Northern Railway, Lucknow, which has not been assailed.

5. After arguments, the learned counsel for the applicant requests that the present O.A. may be treated as withdrawn with liberty to the applicant to file fresh O.A. challenging the order dated 25.10.2007 of Assistant Personnel Officer, Northern Railway, Lucknow alongwith raising other issues which have been mentioned in the Application.

6. In the circumstances, the Application is accordingly disposed of with liberty to file fresh O.A. No costs.

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

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