

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH

LUCKNOW

Lucknow this the 1st day of ~~May~~ June, 99.

O.A. No. 386/90

HON. MR. D.C.VERMA, MEMBER(J)

HON. MR. A.K. MISRA, MEMBER(A)

1. Ganga Chanraⁿ, son of Babu lal aged about 36 years, resident of village Shahsadpur, P.O. Rupauo, District Unnao.
2. Ram Kumar, son of Mahabir Prasad, aged about 33 years, resident of village Hastinapur District Unnao.
3. Radhey Lal, son of Bhagwan deen aged about 31 years, resident of Lucknow.
4. Ram Kishore, son of Mahabir aged about 31 years, resident of village Hastinapur P.O. Hasanganj, Lucknow.
5. Ram Lakhan Tewari, son of Shri Motilal Tewari, aged about 31 years, resident of village Behta. P.O. Dewera Klan, Unnao.

Applicants.

None for applicants.

versus

1. Union of India through its General Manaer, N. Railway, baroda Bouse, New Delhi.
2. D.R.M. N. Railway, Hazratganj, Lucknow.
3. Station Superintendent Northern Railway Lucknow.
4. Assistant Personnel officer, Northern Railway, Hazratganj, Lucknow.

Respondents.

None for respondents.

O R D E R

D.C.VERMA, MEMBER(J)

Five applicants of this O.A. have prayed for a direction to the respondents to empanel the applicants and issue orders of appointment and posting against regular group D post treating

the applicants in continuous service right from the month of June, 1988 with all consequential benefits and to pay the entire salary. Further prayer is to quash the order dated 9.8.90 contained in Anneuxre-1 to the O.A.

2. The brief facts of the case are that the applicants, filed O.A. No. 105/88 before Lucknow Bench of the Tribunal claiming therein that they have been working as Substitute porters. The relief was to allow them to continue to work as Substitute Porters and to restrain the respondents from giving effect to the order dated 25.7.88 by which they were not allowed to continue to work as Substitute Porters.

2. The O.A. was decided by a Division Bench of this Tribunal on 23.4.90 by observing that while the relief claimed by the applicant cannot be granted, the respondents were directed to consider the case of the applicants sympathetically. Thereafter, the respondents considered the case of the applicants and passed the order Annexure 3- dated 9.8.90 which is impugned in the present O.A.

3. In this O.A. again the case of the applicants are that they were initially engaged as substitute porters and they have been working as such but they were wrongly disengaged w.e.f. 25.7.88. The claim is that as the applicants had worked for more than 120 days, continuously, they are under section 25(B) of the Industrial Disputes Act, 1947, entitled to the benefit.

4. The respondents have filed counter reply and have stated that the applicants were initially engaged as casual labour on day today basis and they were duly screened by a Screening Committee on 7.9.90. As the applicants were not found suitable, they were not placed on



the panel of successful candidates.

5. As none appeared on behalf of the parties, we ourselves perused ^{the} pleadings on record and have considered the grounds taken in the O.A. to challenge the order impugned in the case.

6. In the earlier O.A. No.105/88 also the applicants had claimed as Substitute Porters, ~~but~~ The Tribunal, after considering in detail held that "it is clear that though the applicants have been engaged in casual vacancies, they cannot be considered substitute which has a special meaning in terms of railway rules." Thus, a finding has been recorded that the applicants were not substitutes and were only casual workers. The same claim cannot be allowed to be re-agitated in subsequent proceedings.

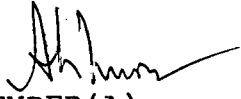
7. While disposing of the O.A., the Tribunal had merely directed to consideration of the case of the applicant sympathetically, ~~that~~ ^{the claim has been} been done by the respondents. and/ rejectd by Anneuxre 1 dated 9.8.90. The relief which ~~was~~ claimed in the earlier O.A. (O.A. No. 105/88), cannot be allowed to be re-agitated, as there is a clear cut finding that the applicants were not substitute porters. Besides, as per recitals made in the Counter reply, all the applicants were screened by a duly constituted screening committee on 7.9.90 and screening committee did not find them suitable. This fact has not been specifically denied by the applicant in ~~their~~ Rejoinder Affidavit. Thus, if the applicants were screened and were found not suitable they could not have been empanelled. The relief claimed in the present O.A. cannot be granted.

8. The applicant's claim that there has been artificial break with the purpose of depriving

the applicants of their due, is found not substantiated.

9. The order of disengagement was challenged in the earlier O.A. No. 105/88 and the disengagement order was not found invalid, and therefore, continuity of service cannot be claimed w.e.f. the said date. Besides, ~~it~~, admittedly, none of the applicants have been engaged thereafter and therefore, the continuity cannot be granted. The claim of the applicants for empanelment and appointment to a regular Group D post, has therefore, no merit.

10. The O.A. is dismissed. Costs easy.


MEMBER(A)


MEMBER(J)

Lucknow; Dated: 01.6.79

Shakeel/