

CENTRAL ADMINISTRATIVE TRIBUNAL, LUCKNOW BENCH

LUCKNOW

Lucknow this the 10<sup>th</sup> day of May, 99.

O.A. No. 172/92

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

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

Manoj Kumar aged about 23 years son of Sri Jhailan resident of House No. T-53 (out house) Samara Railway Colony, Cistrict Gonda.

Applicant.

None for applicant.

versus

1. Union of India through Secretary Postal Deptt. New Delhi.

2. District Controler of Stores, Diesel Depot, N.E. Railway, Gonda.

3. Medical Superintendent Badshahnagar, Railway Hospital, Lucknow.

4. Health Inspector North Eastern Railway Gonda.

5. Assistant Controller of Stores Diesel Depot N.E. Railway Gonda.

Respondents.

By Advocate Shri R.B. Srivastava.

O R D E R

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The applicant was appointed as casual Safaiwala. He has by this O.A. challenged the order of disengagement dated 25.6.90 and has claimed continuity in service with all consequential benefits.

2. The applicant was appointed as casual Safaiwala on 2.7.88 and worked upto 24.6.90 with broken periods. The applicant was however, not engaged w.e.f. 25.6.90. Hence this O.A.

3. The respondents' case is that the



applicant was appointed by Medical Superintendent of Railway Hospital, Badshahnagar, Lucknow. The applicant worked at different Units and therefore, the broken period of service, and the service rendered by the applicant in various units, cannot be joined together. It has been also submitted that the power to appoint the casual Safaiwala was with D.R.M. and therefore, the appointment of the applicant by Medical Superintendent was not by competent authority and therefore, the applicant was not engaged after 25.6.90.

4. As none has appeared for the applicant, with the help of the learned counsel for the respondents, we have examined the pleadings and considered the documents on record.

4. As per the Annexure A-2 to the C.A. power to appoint after 31.12.80 was vested with the D.R.M.. However ignoring the said order, the Medical Superintendent appointed the applicant on 2.7.88 and allowed <sup>him</sup> to continue to work for different periods. Annexure-6 to the O.A. shows that a list of casual Safaiwalas containing 33 names was approved by the D.R.M. on 7.1.88 and another list of 155 casual Safaiwalas was approved on 10.11.90. It was directed that as per the requirement of work, persons from amongst the approved list be engaged. Inspite of this, the applicant was engaged on 2.7.88 by the Medical Superintendent. It is not the case of the applicant that his name was in the list approved by the D.R.M. on 7.1.88. Thus, the initial engagement of the applicant on 2.7.88 by the Medical Superintendent was not by ~~an~~ authority competent to appoint. Consequently, the disengagement of the applicant w.e.f. 25.6.90 cannot be said to be invalid.

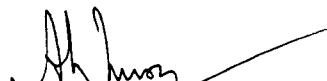


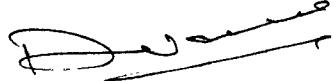
5. The applicant was only a casual Safaiwala. A casual employee is always engaged on day today basis and therefore, any show cause notice before disengagement is not required in such cases.

6. as per applicant's case he was disengaged for giving preference to a preferred candidate. This ground has no merit. As per para 12 of the Counter affidavit, the person~~s~~ who was appointed was an appointee of 1971 and his name was in the list approved by the D.R.M. The applicant was initially engaged on 2.7.88 and <sup>his</sup> name was not in the list approved by the D.R.M. Thus, the claim of the new appointee vis-a-vis the applicant of the present O.A. stands on a better footing.

7. It is not the case of the applicant that anybody junior to him was engaged by the respondents, and therefore, the applicant has no <sup>case</sup> of grievance.

8. In view of the discussions made above, we find no merit in the O.A. The same is dismissed. Costs easy.

  
MEMBER (A)

  
MEMBER (J)

Lucknow; Dated: 10. 5. 99

Shakeel/