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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL JAIPUR BENCH: JAIPUR.

O.A.No.290/94

Date of order: 8.1.1997

Vijay Kumar Saini S/o Shri Kalyan Sahai
Saini, aged about 30 years, resident
Near Railway Qtr., Behind Police Station
Dausa, last employed on the post of Casual
Labour (Hot Waterman) in Traffic Dept. under
S.S. Dausa, Jaipur Division, Jaipur.

: Applicant

Versus

1. Union of India India through General
Manager, Western Railway, Churchgate,
Bombay.
2. Divisional Railway Manager,
Western Railway, Jaipur Division,
Jaipur.
3. Senior Operating Superintendent (E)
Western Railway, Jaipur Division,
Jaipur.
4. Ganga Sahai S/o Shri Ganesh Mali
(hotwaterman) Casual Labour under
S.S. Dausa, Through S.S. Dausa, Jaipur
Division, Jaipur.
5. Ganga Sahai S/o Shri Ghasi Lal (hot waterman)
under S.S.Dausa through S.S.Dausa
Jaipur Division, Jaipur.

: Respondents

Mr. Shiv Kumar, counsel for the applicant
Mr. S.S.Hasin, counsel for respondents

COMAM:

HON'BLE SHRI C.P.SHARMA, MEMBER (ADMINISTRATIVE)
HON'BLE SHRI RAJAN PRASAD, MEMBER (JUDICIAL)

O R D E R

(PER HON'BLE SHRI C.P.SHARMA, MEMBER (ADMINISTRATIVE))

In this application under Section 19 of the
Administrative Tribunal's Act, 1985 Shri Vijay Kumar Saini
has prayed that the retrenchment order dated 15.7.1993
passed by S.S.(Station Superintendent), Dausa may be
quashed with all consequential benefits and the

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respondents may be directed to regularise the services of the applicant on a Group 'D' post in pursuance of various directions/circulars issued by the Railway Board and various decisions of the Hon'ble Supreme Court.

2. The facts of the case as stated by the applicant are that he was appointed as a Casual Labour Hot Weather Waterman on 15.4.1980 at Dausa in Jaipur Division of the Western Railway. He continued to work as such till 15.7.1993 with certain breaks given by the administration. He attained temporary status during 1985-86 (Annexure A-2). He was also medically examined and found fit (Annexure A-3). Respondent No.3 Senior Operating Superintendent (E), Western Railway, Jaipur Division, Jaipur issued a seniority list dated 24.3.93 (Annex. A-1) in which the name of the applicant figures at serial No.315. With effect from 15.7.1993 the applicant was however told not to report for duty. No reasons were assigned for this order. Neither has he been taken on duty thereafter, nor has he been given any prior notice, nor was he given any prior notice ^{was} for retrenchment, nor yet, he paid any compensation. Thus, the various provisions of the Industrial Disputes Act have been violated in discharging him from service. Two persons junior to the applicant whose names do not even figure in the seniority list dated 24.3.1993 have also been appointed as Hot Weather Waterman, the post on which the applicant was appointed.

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3. The respondents in the reply have stated that the applicant was appointed as Hot Weather Waterman under the Station Superintendent, Dausa on 5.4.1980 and his last working date at Dausa was 15.7.1993 . He had however not been continuously working upto 15.7.1993 but there were breaks in his service. They have denied that the applicant has been retrenched from service. According to them, he has been kept as 'available candidate for work' vide letter dated 27.4.1994 (Annex. R-1). As per this letter, the applicant and ten other persons mentioned therein were kept in waiting list with a view to providing them work as per their seniority. They have denied that any person junior to the applicant has been regularised except those belonging to the reserved communities as per their quota prescribed under the Rules. The applicant is not senior to the two employees who according to him, have been retained and who have been made by him as respondents in the OA. These two persons, respondents Nos. 4 and 5 are working as Substitute whereas the applicant is Hot Weather Waterman and, therefore, they are not persons in the same position as the applicant.

4. During the arguments, the learned counsel for the applicant produced before us a copy of order dated 13.3.1995 passed by this bench of the Tribunal in OA No.115/93 Ramesh Kumar Vs. Union of India and others in which the case of an applicant who is similarly situated was dealt with. In that case, directions were issued by the Tribunal that the respondents shall ^{absorb} the

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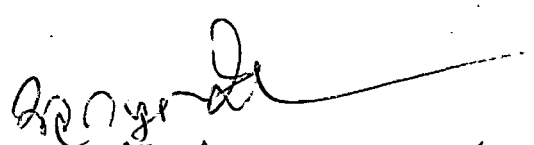
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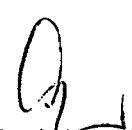
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applicant in regular service as and when his turn comes according to his seniority and they shall continue to engage him as Hot Weather Waterman till such time as he is regularised. He has prayed that the same treatment should be accorded to the applicant in the present OA. The learned counsel for the respondents states that the applicant's name exists in the waiting list and work would be provided to him as and when it is available.

5. In the circumstances, after hearing the counsel for the parties, we direct that the applicant shall continue to be provided with work as and when it is available and he shall also be considered for regularisation in accordance with his seniority and as per rules as and when vacancies are available.

6. The O.A. stands disposed of accordingly with no order as to costs. A copy of the order dated 13.3.1995 passed in Oa No.155/93 has been taken on record.


(RAJAN PRAKASH)
MEMBER (J)


(O.P.SHARMA)
MEMBER (A)