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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR

Date of order: 25.09.2000

OA No.554/1994

Durgesh Kumar S/o Shri Dau Dayal, T.S.Substitute Khalsi C/o Station Supdt., Achnera, Western Railway, Jaipur Division r/o Sangertal, Achnera, Near Wireless Tower, PO, Achnera.

.. Applicant

Versus

1. Union of India through the General Manager, Western Railway, Churchgate, Mumbai.
2. Divisional Railway Manager, Western Railway, Jaipur.
3. Station Superintendent, Western Railway, Achnera, Jaipur Division.

.. Respondents

Mr. P.V. Calla, counsel for the applicant

Mr. S.S.Hasan, counsel for the respondents

CORAM:

Hon'ble Mr. S.K.Agarwal, Judicial Member

Hon'ble Mr. U.P.Nawani, Administrative Member

Order

Per Hon'ble Mr. U.P.Nawani, Administrative Member

In this Original Application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant prays that the respondents be directed to accord him regular appointment in the regular pay scale on any post meant for C-2 medical category.

2. We have heard the learned counsel for the parties and have perused all the material on record.
3. The applicant claims that he served the railways most loyally during the strike on 7th July, 1980 and was offered an appointment

after he passed A-2 medical category. He was, however, engaged as a substitute on 27.4.1983 and continued working till 9.11.1984 when he sustained an injury in one eye and after medical examination, he was declared unfit for A-2 medical category and after his <sup>subsequent, w</sup> representations declared medically fit for C-2 medical category in 1986. He rejoined duties on 16.10.1987. He was granted Temporary Status on 2.11.1988. He worked from 1990 to 29.6.1994 at Achnera and after being routed to Rewari, Dher-ka-Balaji and back to Achnera, and again from 5.7.94 to 4.9.94. Thereafter, inspite of his representations, he has not been given regular appointment as promised to him as a loyal worker during strike.

4. In their reply, the respondents have denied that the applicant provided any loyal service during strike, in fact they have stated that there was no strike in July, 1980 as claimed by the applicant. It has been contended that the applicant worked on daily wage/substitute basis in broken periods and after being declared unfit in A-2 medical category, he was medically examined and declared fit for C-2 medical category on humanitarian grounds in 1987. After 29.6.1994, no work was assigned to him as no work was available at Achnera. The respondents have admitted that the applicant was granted Temporary Status, and have also stated that the seniority list based on the working days has been prepared and it was issued on 23.9.1993 and no junior person to the applicant has been regularised except Shri Kalu against a S.T. quota. It has finally been stated that since the applicant is medically fit for C-2 medical category which could only be given subject to availability of work.

5. We have given our careful consideration to the rival contentions. During the hearing, the learned counsel for the applicant suggested that the applicant will be quite happy if the

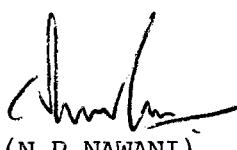
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respondents are directed to consider the case of the applicant for engagement and regularisation in any post suitable for C-2 medical category as per his seniority and subject to availability of such a post and the rules applicable. The learned counsel for the respondents was fair in not opposing the suggestion.

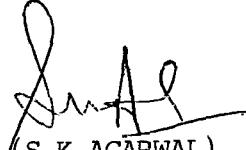
6. We, therefore, dispose of this Original Application with a direction to respondents to consider the case of the applicant for engagement/regularisation in any post suitable for C-2 medical category persons subject to availability of work, his turn for regularisation and the relevant rules.

No order as to costs.



(N.P.NAWANI)

Adm. Member



(S.K.AGARWAL)

Judl.Member