

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

OA 181/2002

DATE OF ORDER: 9.4.2003

Frasadi son of Late Shri Moolia, aged about 57 years, resident of Railway Loco Colony, Quarter No. 17-1, Near Canteen, Gangapur city at present employed on the post of Group-D (NAC) in Western Railway, Kota Division.

Applicant:

VERSUS

1. Union of India through General Manager, Churchgate, Mumbai;
2. Divisional Railway Manager (Estab.), Kota Division, Kota;
3. Assistant Mechanical Engineer (Estt.), Western Railway, Kota Division, Kota;
4. Divisional Mechanical Engineer, Western Railway, Kota Division, Kota;

Respondents:

Mr. Shiv Kumar, Counsel for the applicant;

Mr. Tej Prakash Sharma, Counsel for the respondents;

CORAM:

Hon'ble Mr. H.O. Gupta, Member (Administrative)

Hon'ble Mr. M.L. Chauhan, Member (Judicial)

ORDER (ORAL)

This OA has been filed seeking for the following reliefs :-

- "(i) That the impugned order dt. 22.3.2002 (Annexure A-1 & 2) may please be declared illegal, arbitrary and the same may be set aside. Further the applicant may be treated as on temporary Railway Servant in pursuance of rule 2501 and in light of judgement of Hon'ble Supreme Court passed in L. Robert D'souza,



Executive Engineer, Southern Railway & Ors. Further after treating him as on temporary Railway servant on completion of 120 days he may be given all service benefits including fixation of pay, increment pay etc. The original application may be allowed with all consequential benefits.

(ii) That any other order/direction/reliefs may be passed in favour of the applicant which may be deemed fit, just and proper under the facts and circumstances of this case.

(iii) That the cost of this application may be awarded."

2. The respondents have contested this application and have filed reply. On the direction of the Tribunal, the DRM filed an additional affidavit. During the course of arguments, on an query, the learned counsel for the respondents had submitted that he would seek instructions as to why the temporary status cannot be granted even if the applicant has attained over age of 25 years and promised to produce supporting instructions. Today, the learned counsel for the respondents submits that temporary status has been granted to the applicant w.e.f. 1983. This aspect is confirmed by the learned counsel for the applicant. Therefore, no further order needs to be passed in this regard.

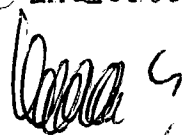
3. The learned counsel for the applicant further submits that there is another prayer for quashing the order dated 22.3.2002 (Annexure A/2). He further submits that the Hon'ble Tribunal, during the admission stage, had stayed the impugned order till the disposal of this OA. We have perused the impugned order dated 22.3.2002 (Annexure A/2). It is stated


B

therein that the applicant's service will stand terminated on and from 22.4.2002 after expiry of one month's notice of retrenchment from 22.3.2002. The reasons given in the said order is "on being declared as unfit by the Screening Committee due to over-age."

4. Since the applicant has been granted temporary status, the question of over age does not come in the way and thus, the notice of retrenchment is no more valid and, therefore, quashed. So far as regularisation is concerned, let it be done as per rules.

5. Accordingly, this OA is partly allowed to the extent as indicated in Paras 2 to 4.


(M.L. CHAUHAN)
MEMBER (J)


(H.O. GUPTA)
MEMBER (A)