

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 735 of 2003

Jabalpur, this the 24th day of March, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

Sohail son of Shri Hira Lal
Aged about 45 years, Resident of
Bagh Colony, K-55, Railway Quarters,
Civil Lines, Jabalpur (M.P.). ... Applicant

(By Advocate - None)

Versus

1. Union of India, through
Secretary, Ministry of Railway,
New Delhi.
2. Divisional Manager,
Central Railway, Jabalpur, M.P. ... Respondents

(By Advocate - Shri H.B. Shrivastava)

O R D E R (Oral)

By M.P. Singh, Vice Chairman -

Today this Original Application is listed for orders. None is present for the applicant. None was present for the applicant on earlier date of hearing i.e. on 5.2.2004. The reply has been filed by the respondents and a copy of the same was sent to the applicant on the address given by him in the Original Application. The envelope has been received back from the Postal authority with a remark that the letter could not be delivered to the person concerned as the address given by the person in the envelope is wrong. The letter was sent to the address which the applicant himself has given in the Original Application. For the reasons recorded above, we proceed to dispose of this Original Application on merit at this stage itself by invoking the provisions of Rule 15 of CAT (Procedure) Rules, 1987.

2. By filing this Original Application the applicant has

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claimed the following main reliefs :

i. to issue a writ in the nature of certiorari order of termination may kindly be set aside.

ii. to issue a writ in the nature of mandamus respondents may kindly be directed to reinstate the applicant with all consequential benefits."

3. The brief facts of the case are that the applicant has worked as Casual Labour for the period from 1976 to 1989. He was disengaged in the year 1989. Thereafter the applicant has approached the Assistant Labour Commissioner (C), Jabalpur against his termination. The issue having failed in conciliation, his case was considered by the Labour Ministry ~~concerned~~ and was rejected as not maintainable as communicated on 9.9.2002 (Annexure A-2). Thereafter the respondents have issued letter dated 23.05.2003 (Annexure A-4), wherein he was advised that ^{as} he has been found suitable in the screening for Gangman, he should report for medical examination. After he was selected for the post of Gangman he went for medical examination, but, he was found medically unfit under all categories as per Annexure R-1, R-2 and R-3. Thereafter he has filed this Original Application claiming the aforesaid reliefs.

4. Heard the learned counsel for the respondents and perused the records carefully.

5. In this case we find that the applicant has been selected by the respondents for the post of Gangman but he was found medically unfit for all categories of posts and therefore he has not been appointed to the post of Gangman by the respondents. The applicant has not challenged the medical certificate issued by the Senior Divisional Medical Officer, Central Railway, Jabalpur who has declared him unfit for all the categories, instead of challenging the

same he has suppressed the fact that he has been declared medically unfit. Moreover he has also approached the Asstt. Labour Commissioner (C), Jabalpur for conciliation. It is a settled legal position that the employee ~~if~~ once approaches thereafter the Labour Court and fails there, cannot approach the Administrative Tribunal. On that ground also the Original Application is not maintainable.

6. For the reasons recorded above the Original Application is dismissed as not maintainable. No costs.

(M)

(Madan Mohan)
Judicial Member

M.P. Singh
(M.P. Singh)
vice Chairman

"SA"

प्राक्तन संस्थान के लिए निम्नलिखित विवरों का अनुसार विवरण दिया गया है।

(1) नाम: R M Singh
(2) विवरण: M B Bhivraj
(3) वर्ष: 1980
(4) विवरण: राजकाल के अनुसार

R M Singh
M B Bhivraj

Rajendra
5/2/80

*Recd
Hans (H.S.)*