

**THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH, JAIPUR
ORDER SHEET**

APPLICATION NO.: _____

Respondent (S)

Applicant (S)

Advocate for Respondent (S)

THE REGISTRY

ORDERS OF THE TRIBUNAL

28.08.2009

OA No. 415/2006

None present for applicant.

Mr. R.L. Agarwal, Proxy counsel for

Mr. Alok Garg, Counsel for respondents.

Heard learned counsel for the respondents.

**For the reasons dictated separately, the OA is
disposed of.**


**(B.L. KHATRI)
MEMBER (A)**


**(M.L. CHAUHAN)
MEMBER (J)**

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
JAIPUR BENCH

Jaipur, this the 28th August, 2009

ORIGINAL APPLICATION NO. 415/2006

CORAM:

HON'BLE MR. M.L. CHAUHAN, JUDICIAL MEMBER
HON'BLE MR. B.L. KHATRI, ADMINISTRATIVE MEMBER

Mahesh Chand son of Shri Chhote Lal aged around 50 years, resident of Plot No. 187/32, Jadugar Jawahar Colony, Alwar Gate, Ajmer.

.....APPLICANT

(By Advocate: None)

VERSUS

1. Union of India through General Manager, North Western Railway, Hasanpura Road, Jaipur.
2. Chief Workshop Manager, North Western Railway, Ajmer.

.....RESPONDENTS

(By Advocate : Mr. R.L. Agarwal proxy to Mr. Alok Garg)

ORDER (ORAL)

In this case none is appearing on behalf of the applicant, as can be seen from the order sheets dated 02.12.2008, 15.01.2009, 10.02.2009, 03.03.2009 and 13.07.2009. It may be stated that when the matter was listed on 13.07.2009, this Tribunal passed the following order:-

"Let the matter be listed on 28.02.2009. In case no appearance is made on behalf of the applicant on the next date, the matter will be decided on the basis of the material placed on record."

2. Even today, none has appeared on behalf of the applicant. Instead of dismissing this case in default, we have proceeded to decide

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the same on merit in view of the provisions contained in Rule 15 of CAT (Procedure) 1987.

3. The applicant has filed this OA thereby praying for the following reliefs:-

- "(i) It is, therefore, prayed that order dated 12.11.2005 passed by the Chief Workshop Manager, Ajmer may be set aside and quashed.
- (ii) That the respondents may be directed to re-examine the applicant for appointment in C-I, C-II or any other category in Group 'D' staff category of Railways.
- (iii) Any other order or direction which the Hon'ble Tribunal may deem fit and proper in the facts and circumstances of the case, even if the same has not been specifically prayed for, but which is necessary to secure ends of justice may kindly also be passed in favour of the applicant."

4. Briefly stated, facts of the case are that the applicant was initially engaged as Casual Labour in the year 1975. It may be stated that the respondents took steps for regularization of service of the casual labour, who have worked for 240 days in the year 1981. For that purpose, a list dated 13.06.1981 was issued by the Additional Chief Mechanical Engineer thereby containing the names of the candidates who have been found fit for regularization, candidates although selected but whose record for time period of work as casual labour was not available and the list of candidates who were found unfit and list of candidates who were not eligible for regularization. The name of the applicant found mention in Appendix 'B' as enclosed vide letter dated 13.06.1981. It may be stated that Railway Department regularized service of those persons whose name mentioned in Appendix 'A' and did not regularized the service of those candidates whose name find mentioned in Appendix 'B'. Feeling aggrieved, persons whose name find mentioned in Appendix 'B' filed ~~Writ~~ Petition before this Tribunal. This Tribunal directed the respondents to give appointment to those persons whose name find

mentioned in Appendix 'B' within 30 days from the date of the order subject to their being found medically fit in the appropriate category after medical examination. For that purpose, the respondents have placed on record copy of order dated 10.10.1995 passed in Review Application No. 59/94 and 60/94 as Annexure R/2.

5. The respondents in their reply have categorically stated that no doubt the applicant has deposited Rs.24/- as medical checking charges in compliance of the order dated 10.10.1995 of the learned Tribunal but the applicant was found medically unfit for C-1 category in the medical examination. Intimation to this effect was given to the applicant and he was further advised that in case he wishes, he can file an appeal against the decision before CMD, North Western Railway. Pursuant to such information given to the applicant vide letter dated 07.11.2002, the applicant filed an appeal before the CMD, North Western Railway, which was also dismissed vide order dated 22.03.2004 which the applicant was informed vide order dated 12.11.2005. Now the applicant has challenged the validity of the order dated 12.11.2005 and has also prayed that respondents may be directed to reexamine him for appointment in C-I, C-II or any other category in Group 'D' staff category of Railways.

6. We have given due consideration to the submission made by the applicant. We are of the view that the applicant is not entitled to any relief. Admittedly, the case of the applicant was considered by the appropriate authority in the year 1981 for the purpose of absorption of casual labour in Group 'D' category. Since the applicant was not found medically fit, he was not given appointment by the authorities. Appeal filed by the applicant had also been rejected. Thus we see no infirmity in the action of the respondents. As can be seen from the order passed by this Tribunal in RA 59/2995 (TA 192/1992), it was directed that all the applicants in the aforesaid TAs shall be given appointment as Group 'D' employees within a period of 30 days from the date of this

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order, subject to their being found medically fit in the appropriate category after medical examination. Thus the action taken by the respondents is in conformity with the decision taken by the Tribunal in RA 59/94 in TA 192/92. Since the applicant has not been found medically fit, he has got no right to compel the authorities to adjust him in the lower category especially when the respondents in the reply have categorically stated that there is no lower post of C-1 category for which the applicant could have been considered.

7. In view of what has been stated above, we are of the view that the OA is bereft of merit. Accordingly, the same is dismissed with no order as to costs.


(B.L. KHATRI)
MEMBER (A)


(M.L. CHAUHAN)
MEMBER (J)

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