

IN THE HIGH COURT OF JHARKHAND AT RANCHI
W.P. (S) No. 2838 of 2015

Ashok Kumar Tanti

--- --- Petitioner

Versus

1. Union of India through, General Manager, Eastern Railway, Malda Division, Malda, West Bengal
2. Divisional Railway Manager, Howrah (Nowmal), Eastern Railway, Malda Division, Malda, West Bengal
3. The Inspector of work, Eastern Railway, Sahibganj --- --- Respondents

CORAM: **The Hon'ble Mr. Justice Aparesh Kumar Singh**
The Hon'ble Mr. Justice B.B. Mangalmurti

For the Petitioner: Mr. Md. Ashrafuzzaman Khan, Advocate

For the Respondents: M/s Mahesh Tewary, Abhishek Kr. Dubey,
Subrat Kr. Singh, Advocates

06/ 26.07.2017 Heard counsel for the parties.

2. The plea of the applicant / petitioner herein for absorption in the Railways on the ground that he had been engaged as casual Gangman in Howrah Division of Eastern Railway (now Malda Division) from 1976 onwards and had continuously worked for more than 180 days as on 30.05.1989, was not acceded to by the Learned Central Administrative Tribunal, Patna Bench (Circuit Bench at Ranchi.). By the impugned order dated 24.09.2012 passed in O.A. No. 266/2009 (R), the Learned Tribunal dismissed the O.A. with the finding that there is nothing on record to show that applicant has served for 10 years or more. Annexure-1 also relied upon by the petitioner herein is an application dated 30.06.1989 by the petitioner himself for absorption in Railways where the date of engagement is shown as 17.09.1975 and the number of working days as on 30.05.1989 is shown as 180 days; Annexure-2 also relied upon by the petitioner herein is the list of casual labourers and the period which they had worked in different years; against the name of the petitioner at serial no. 6, it is shown as 180 days in the year 1975; Annexure-3 cited by the petitioner is a correspondence on the question of re-engagement which is dated 29.05.1979 which only conveys that his case will be considered as soon as vacancy arises. The subject 're-engagement' itself indicates that he was disengaged prior to that.

3. Taking note of these materials relied upon by the applicant, the Learned Tribunal did not find sufficient ground to direct the respondents to absorb him. The

original application was also preferred in the year 2009 after huge delay in relation to such a claim. Learned counsel for the applicant has however sought sympathetic consideration in the matter.

4. We are afraid that in the matter relating to absorption specially in the light of the judgment rendered by the Hon'ble Supreme Court in the case of **State of Karnataka vs. Uma Devi [(2006) 4 S.C.C. 1]** and **State of Karnataka vs. M.L. Keshri & others [(2010) 9 S.C.C. 247]**, such a sympathetic consideration cannot be accorded. We therefore do not find error in the order of the Learned Tribunal on facts or in law in which interference is required under Article 226 Constitution of India. The instant writ petition is accordingly dismissed.

(Aparesh Kumar Singh, J)

(B.B. Mangalmurti, J)

Ranjeet/