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* **IN THE HIGH COURT OF DELHI AT NEW DELHI**

+ **W.P.(C.) No. 12431/2018**

NAGENDER PRASAD Petitioner

Through: Mr. R.K. Shukla, Adv.

versus

UNION OF INDIARespondent

Through: Mr. Jagjit Singh, Adv.

CORAM:

HON'BLE MR. JUSTICE VIPIN SANGHI

HON'BLE MR. JUSTICE A.K.CHAWLA

ORDER

% **20.11.2018**

1. By the instant petition, the petitioner extends challenge to the order dated 27.03.2018 passed by Central Administrative Tribunal, Principal Bench, in short, 'CAT', dismissing the OA no. 865 of 2016 filed by the petitioner seeking the reliefs, as under :

"a. To quash and set aside the impugned order dated 16.11.2015 directing the respondent to consider the absorption of the applicant in railways against any suitable post, implementing the judgment dated 22.03.2005 followed by the enquiry report dated 01.08.2008 conducted by Assistant Labour Commissioner read with judgment of All India Parcel Porter Union and subsequent judgment passed in Writ Petitions.

b. To direct the respondent to absorb the applicant permanently as per the assurances of the then Hon'ble Railway Minister, decided by

assurance committee to absorption of Coal handling contract workers after shutting down the loco shed with all consequential benefits.

c. to pass any other and further order or relief which this Hon'ble Tribunal deems fit and proper in the facts and circumstances of the case."

A bare reading of the prayers afore-going shows that on being approached earlier, CAT only directed consideration of the claim of the petitioner for absorption in service with railways. The premise, on which the petitioner approached CAT was that he was working as Coal Handling Porter since the year 1987 with Bareilly Railway Sahkari Shram Samvida Samiti Ltd., which was engaged as a contractor by Northern Railways. Due to shutting down of local coal steam and locomotives, the petitioner was disengaged by the contractor during the year 1993-94. It is the case of the petitioner that in the year 1994, a committee on Govt. assurances was constituted by railways and in the year 1996, an assurance had come to be given by the Union Minister of Railways for the permanent absorption of the contract workers alike the petitioner and when no positive development took place, Steam Loco Contract Workers Association and others approached CAT in the year 1997 and therein, in the year 2004, the directions came to be issued by CAT for consideration of their claim. It is also the case of the petitioner that in the case of Parcel and Goods Porters, CAT had directed the respondents to get an enquiry conducted through Asstt. Labour Commissioner and in pursuance thereof, Regional Labour Commissioner (Central), Lucknow had submitted the report dated 01.08.2008 and as per the said report, the petitioner was also one of the persons, who was

confirmed to have worked, when the shutting down of local Coal Steam and Locomotives took place in December, 1994. In this background and in the absence of any absorption, the petitioner asserts, he has been making repeated representations and finding no response thereto, he filed OA no. 3117/2014 before CAT and in that OA, the respondents were directed to take decision within two months. In pursuance thereof, the respondents took decision and rejected the representations of the petitioner for permanent absorption on 16.11.2015. Thereafter, the petitioner filed another OA no. 865/2016 assailing the order dated 16.11.2015, which came to be rejected on 27.03.2018. Feeling aggrieved thereof, the petitioner has filed the instant writ petition.

2. During the course of hearing, learned counsel for the petitioner conceded that but for the purported assurances made by the then Union Railway Minister or any other authority, the railways never formulated any policy for the absorption of the petitioner. On being queried during the course of hearing, learned counsel for the petitioner on his part was equally unable to quote any instance of anyone else, similarly placed like the petitioner, having been absorbed. In other words, the petitioner does not have a case even on the ground of parity. It is a matter of record that in any of the proceedings, the CAT only directed consideration of the case of the petitioner or the others similarly placed and there has never been any direction by either CAT or any other authority for the permanent absorption of the petitioner. It is the own case of the petitioner that he was a contractual worker engaged by a society namely Bareilly Railway Sahkari Shram Samvida Samiti Ltd. and thereby, in his own rights, he had no privity of

contract with railways either as a temporary, ad-hoc or contractual employee. We therefore do not find that he was vested with any right to seek absorption in the service with railways as asserted to by the petitioner or otherwise. Undisputedly, the railways have also not framed any policy under which the petitioner could assert any such right. We therefore do not find any merit in the petition.

3. In view of the foregoing, the petition is dismissed. No order as to costs.

VIPIN SANGHI, J.

A.K.CHAWLA, J.

NOVEMBER 20, 2018

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