

Item-15

17.10.2003

MA-1025/2003

OA-2972/2002

Present: Sh. Yogesh Sharma,
counsel for applicant.

Sh. M.S.Saini proxy for
Sh. R.L.Dhawan,
counsel for respondents.

OA-2972/2002 was decided by this Court on 15.11.2002 with a direction to the respondents to examine the representation of the applicants treating the grounds raised in the OA as additional grounds in the light of the relevant rules, instructions and judicial pronouncements on the subject and dispose of the same with a detailed and speaking order in accordance with law.

In compliance of the judgment, Railways have passed an order dated 11.2.2002 holding that the applicants had never been appointed by any department of the Railways, so no action is required on the representation of the applicant. Counsel for applicants submitted that this is not a compliance as the respondents have not passed a reasoned and speaking order. Besides that applicants in the OA had claimed that Railways had a scheme whereby they were supposed to offer the engagement as casual labour to those employees of the Contractor as per the directions given by the CAT in case of OA-2685/1991 in Mohan Lal & Ors. vs. U.O.I. & Ors. Railways had also issued a circular to this effect vide their circular No.E(NG)11/92/CL/WR/43 dated 31.8.92 with the caption "Treatment of piece-rated contract labour of Jaipur Division as casual labour on Western Railway". It was specifically mentioned that in the light of the judgment given in the PB such of the contract labour will be engaged as casual labour

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who have worked for at least 120 days during the preceding two years as on 1.7.92.

Applicants claims that they have got all the documents to prove that they are fully covered under this circular and are entitled to be engaged as casual labour. They have annexed these orders as well as the scheme alongwith OA but the alleged compliance order has been passed in a cursery manner without passing any speaking order.

I have considered the rival contentions of the parties and have gone through the order passed by this Tribunal. I find that compliance order is not in consonance with the order given in this OA as the OA was based on the scheme dated 31.8.92. There is no reference with regard to the scheme nor there is any reference if applicants have ever been engaged by contractor. Rather it is mentioned that applicants have not been engaged by any department of the Railways.

In view of these circumstances, I find that fresh ^{consideration} is required by the department. Respondents are directed to pass a fresh order in the light of the scheme dated 31.8.92 within a period of two months. Applicants are also directed to furnish the necessary documentary proof in support of their case that they had worked with the contractor and they are fully covered under the scheme of 31.8.92. After examining the same, if respondents find that applicants are covered under the scheme, so they shall engage the applicants. Applicants shall furnish the necessary material within a period of 15 days from the date of receipt of a copy of this

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order and respondents shall decide the representation of the applicants within 2 months after the documents are furnished by the applicants. MA stands disposed of.

Kuldip Singh

(KULDIP SINGH)
Member (J)

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