

Central Administrative Tribunal
Principal Bench: New Delhi

O.A. No. 2193/98

(14)

New Delhi this the 1st day of February, 2000

Hon'ble Mr. Justice V. Rajagopala Reddy, VC (J)

1. Parmeshwari
S/o Shri Ram Dayal
2. Hira Mani Morya
S/o Shri Suraj Deen
3. Suresh Giri
S/o Shri Budha Giri,

(All r/o-C/o Shri Hari Singh-RZH-311,
Raj Nagar, Palam Colony, New Delhi-45)

...Applicants
(By Advocate: Shri U. Srivastava)

Versus

Union of India through

1. The General Manager
Northern Railway, Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway, Estate Entry Road,
New Delhi.
3. The Permanent Way Inspector
MTP (R), Patel Nagar,
New Delhi

..Respondents
(By Advocate: Shri R.L. Dhawan)

ORDER (Oral)

By Reddy, J.-

The first applicant has been working as a casual labour from 1.1.81 to 31.5.82, 1.6.82 to 31.7.82, the second applicant has been working from 1.8.1981 to 31.7.1982 and 18.11.83 to 31.8.1984 and the third applicant has been working from 1.8.81 to 31.5.82, 1.6.82 to 31.8.82, 1.9.82 to 31.12.82. It is the case of the applicants that they have been terminated by the respondents on account of the completion of

VR

the work with an assurance that they could be re-engaged as and when need arises. The grievance of the applicants is that they have not been re-engaged nor kept in the Live Casual Labour Register. The applicants approached the Tribunal earlier and while disposing of the same, the Tribunal directed that the respondents to consider the representation filed by the applicants and pass an order. Accordingly, it was disposed of and rejected the claim. Annexure A1 is the order which is now under challenge in the O.A. It is contended by the learned counsel for the applicant Shri Srivastava that as the applicants have been engaged subsequent to 1.1.81 and discharged thereafter, they are entitled for registration of their names for Live Casual Labour Register as per paragraph-9 of Circular dated 28.8.87. Learned counsel for the respondents Shri Dhawan submits that the applicants are not entitled for their names to be registered in the Live Casual Labour Register as per Circular dated 28.8.87. It is contended that respondents were not engaged by the competent authority and that as they have been engaged subsequent to 1.1.81 they are not entitled for registration as per paragraph-9 of the above Circular.

2. The only question that arises for consideration is whether the applicant is entitled for registration in the Live Casual Labour Register. There is no dispute that the applicants have been engaged subsequent to 1.1.81.

(5)

The applicant filed certain certificates (A-5) showing that they have been disengaged on the expiry of the sanctioned works. The first contention raised by the learned counsel for the respondents is that the applicants have not been engaged by a competent authority, the competent authority being the General Manager, Northern Railway. I do not see any substance in this contention. The respondents disengaged them after taking their services for sufficient long time. They were discharged only on the ground that there was no work and they would be re-engaged after the necessity arises. If they had not been engaged by the competent authority, there was no reason for the Railways to have obtained the approval of the competent authority during their engagement. It is not open to the respondents to raise the ground having not objected to their engagement during their service. The principle of estoppel operates against the respondents. I am also supported by the decision of the Principal Bench of the Tribunal in O.A.No.2295/97 decided on 1.10.97.

(16)

3. The second contention raised by the learned counsel for the applicant is that the applicants are not entitled as per the Circular dated 28.8.87 as they were engaged only subsequent to 1.1.81. Paragraph-9 of the Circular reads as under:-

"From the above discussions, it is to summarise that while maintaining live casual labour register, those casual labour discharged prior to 1.1.1981 and had not worked for two



years, their names should be deleted except such casual labour who had made special representation in terms of PS No. 9191 and 9195 (to be executed upto 31.3.1987) and considered eligible, further all casual labour discharged after 1.1.81 their names are to be continued on the live casual labour register indifinitely".

(17)

4. A bare perusal of the above paragraph makes it clear that a casual labour must have been engaged prior to 1.1.81. As to the disengagement, it contemplated two cases, viz. the disengagement prior to 1.1.81 and after 1.1.81. In both the cases the casual labour is entitled to maintain their names in the Live Casual Labour Register. The condition precedent therefore is that he should have been engaged prior to 1.1.81. This paragraph has been clarified in the Circular dated...May 1998 Annexure R-2 filed alongwith reply. It was clarified therein that the casual labourers who were engaged prior to 1.1.81 and discharged after 1.1.81, their names are to be continued in the Live Casual Labourer Register. The applicants admittedly having been engaged subsequent to 1.1.81. I am of the view, that they are not entitled for consideration to be registered in the Live Casual Labour Register.

5. However, in view of the paragraph-11 of the above Circular, if no casual labour is available on live casual labour register and fresh intake has to be resorted to, preference should be given to the applicants who had earlier



worked in the Railways, but their names could not be registered in the live casual labour registers.

(18)

6. With this observations, the OA is disposed of. No costs.

V. Rajagopala Reddy
(V. Rajagopala Reddy)
Vice-Chairman (J)

cc.