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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA NO. 1842/95
MA NO. 2102/99

NEW DELHI THIS THE 5th DAY OF NOVEMBER, 1999

HON'BLE MR. JUSTICE V. RAJAGOPALA REDDY, VICE CHAIRMAN (J)
HON'BLE MRS. SHANTA SHASTRY, MEMBER (A)

In the matter of:

1. Pancham
2. Jai Singh
3. Somnath
4. Ram Avtar
5. Prakash Chand
6. Raghubir Singh
7. Hari Nandan
8. Shiv Rattri
9. Raj Kumar
10. Mahinder
11. Deep Chand
12. Shiv Ram
13. Kaloo
14. Jai Prakash
15. Shiv
16. Dharmi Pal
17. Prem
18. Ram Sawroop
19. Ram Kumar
20. Ayodhya Prasad
21. Bindeshwari
22. Mam Raj
23. Ramchandra
24. Shishpal
25. Surjan Singh
26. Rampal
27. Sri Ram
28. Sukh Ram
29. Kesho
30. Jai Bhagwan
31. Labh Singh
32. Gajjan Singh
33. Raghbar Dayal

All are working as
Deputy Chief Engineer,
Northern Railway, Delhi Division,
Kashmere Gate, Delhi.

..... Applicants

(By Shri D.N. Goburdhun, Advocate)

Vs.

1. Union of India through
Secretary, Railways,
Ministry of Railways,
Rail Bhawan,
New Delhi.
 2. General Manager,
Northern Railway,
Baroda House,
New Delhi.
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3. Chief Administrative Officer,
Kashmere Gate,
Delhi.
 4. Chief Engineer,
Northern Railways,
Kashmere Gate,
Delhi.
 5. Deputy Financial Controller,
Kashmere Gate,
Delhi.
- Respondents
- (By Shri H.K. Gangwani, Advocate)

O R D E R (ORAL)

BY REDDY. J.

Heard counsel for the applicant and the respondents.

2. MA-2102/99 is filed seeking to implead the applicants in the OA as applicants. This MA is filed under 1 Rule 10 CPC and Rule 4 (5) (a) of the CAT Procedure Rules. The learned counsel for respondents opposes the prayer in the MA.

3. The pleadings in the OA have been completed and the case has also been heard and when the judgment was about to be delivered, this MA is sought to be filed. We are of the view that Rule 4 (5) (a) is not applicable. This rule is applicable only when two or more applicants filed the OA together. This application is to implead the persons as applicants in the OA. Applicant cannot implead himself in the OA filed by other persons. He has a right to file a separate OA, of course, subject to the law of limitation and other procedural formalities. Moreover, at this stage we do not entertain the MA. The MA is, therefore, dismissed.

OAA

The only relief prayed for in this OA is for regularisation in the service of Northern Railway and for payment of arrears of pay from the date of the judgment of the Tribunal in OA No. 2467/88 till the applicants are absorbed.

2. The applicants were working on daily wage basis in the Railways and were terminated on 19.12.88. Aggrieved by the order of termination, the applicants filed OA No. 2467/88 which was disposed of by the judgment dated 16.3.90 giving the following directions:-

"(i) We reject the preliminary objections raised by the respondents as to the maintainability of the application and hold that casual labourers, irrespective of whether they have acquired temporary status or not, would be entitled to move this Tribunal with applications under Section 19 of the Administrative Tribunals Act, 1985, notwithstanding the non-exhaustion of remedies available to them or notwithstanding that they have not chosen to move the forums provided for conciliation and adjudication of disputes in accordance with the provisions of the Industrial Disputes Act, in the first instance. Similarly, this Tribunal has jurisdiction, power and authority to adjudicate upon the cases transferred to it under Section 29 of the Administrative Tribunals Act, 1985.

(ii) As the applicants have continuously worked for more than four months, they must automatically be deemed to have acquired temporary status and the termination of their services without giving them notice is legally unsustainable. The impugned orders dated 19.12.1983, whereby the services of the applicants have been terminated, are set aside and quashed. After reinstating them, the respondents shall consider engaging them in the zone of the Railways where they had been engaged, failing which anywhere else in India depending on the availability of work.

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- (iii) In the circumstances of the case, we do not direct payment of back wages to them.
- (iv) The respondents shall consider the absorption of the applicants in regular posts in Group IV category in accordance with their length of service and the relevant rules.
- (v) The respondents shall comply with the above directions within a period of three months from the date of communication of this order.
- (vi) There will be no order as to costs.

3. The present OA is filed raising a grievance that the directions given in the judgment in the above OA are not complied with, inasmuch as though they were reinstated in service on 5.5.91 they have not yet been regularised in the said lists. In the counter affidavit, it is stated in para 7 that the regularisation of services of casual labour depends upon availability of regular vacancies in the division where they were engaged subject to their total working days as casual labour. On the date when the counter was filed applicants No. 4,6,13,20 and 26 in the earlier OA were regularised.

4. On the last occasion after the matter was heard for quite some time, we directed the respondents to appear before the Court and give information as to the stage of regularisation of the respondents if any of them have been regularised. Accordingly, a statement has been filed showing that all the applicants herein have been regularised during the period from 1995 to 1997. Learned counsel for the applicant, however, submits that as Tribunal had directed to regularise the services of the applicant within the period of 3 months the respondents should reckon the seniority of the applicants who have been regularised, w.e.f. June 1990 3 months later to the

judgment and also pay back wages till they were reinstated.

The learned counsel for the respondents Sh. Gangwani submits that as the directions were given only to consider the case of the applicants as per rules and depending upon the availability of work accordingly respondents had considered the case of the applicants and regularised their services hence the applicants were not entitled for any back wages nor for reckoning the seniority retrospectively.

5. We have given our careful consideration to the arguments advanced by the learned counsel. By the judgment in OA No. 2467/88 dated 16.3.90 respondents are directed to comply with the directions in the judgment within 3 months therefrom. The Tribunal has only directed the respondents to consider engaging the applicants within the period of 3 months. As it is stated that the respondents had considered the case of the applicants and reinstated them in May 1991, it cannot be said that there is any violation of the order in so far as their reinstatement is concerned so as to make a claim for arrears of payment of salary from June 1990 till they were reinstated. Again as to the nature of direction for regularisation the respondents are only directed to consider the applicants for regularisation within three months. In order to regularise the services of the applicants it was necessary to see the position of vacancies, their seniority and their eligibility etc. They should also be screened and only when they were found fit, they would be regularised. It must also be noted that the applicants have not chosen to approach this Court, if they were aggrieved of the non-implementing of the judgment within 3 months. It was only in 1995, after 5 years of the judgment in 1990, they filed the OA. Thus, the applicant can now only make a grievance about their non-regularisation. Now, as it is stated that they have been regularised in 1995

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and 1997, it cannot be said that there is any non-compliance of the orders of the Tribunal. The payment of arrears of salary and the seniority with retrospective effect cannot, therefore, be accepted. Since the applicants have been regularised nothing survives in the OA.

8. The OA is, therefore, dismissed. No costs.

Shanta
(MRS. SHANTA SHASTRY)
Member (A)

V. Rajagopala Reddy
(V. RAJAGOPALA REDDY)
Vice Chairman (J)

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