

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

O.As. Nos. 1836, 1837 & 1838 of 1997

New Delhi, this the 7th day of August, 1997

Hon'ble Mr. N. Sahu, Member (Admnv)

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O.A. No. 1836 of 1997

1. Shri Shiv Raj Singh, S/o Shri Phool Singh, Substitute Safaiwala, under Senior Superintendent (Carriage & Wagon), Moradabad.
2. Shri Ramesh Singh, S/o Shri Priyag Singh, Substitute Safaiwala, under Senior Supdt. (C&W), Northern Railway, Moradabad.
3. Shri Malkhan Singh, S/o Shri Yaswant Singh, Substitute Safaiwala, under Senior Supdt. (C&W), Northern Railway, Moradabad.
4. Shri Satish Chand, S/o Shri Prakash Chand, Substitute Safaiwala, under Senior Supdt. (C&W), Northern Railway, Moradabad.
5. Shri Rajesh Mohan, S/o Shri Harish Chand, Substitute Safaiwala, Under Senior Supdt. (C&W), Northern Railway, Moradabad.
6. Shri Jaidev Singh, S/o Shri Roop Singh, Substitute Safaiwala, under Senior Supdt. (C&W), Northern Railway, Moradabad.
7. Shri Rajeswar Singh, S/o Shri Bhoop Singh, Substitute Safaiwala, under Senior Supdt. (C&W), Northern Railway, Moradabad.
8. Shri Mahesh Chand, S/o Shri Harish Chand, Substitute Safaiwala, under Senior Supdt. (C&W), Northern Railway, Moradabad.
9. Shri Shiv Ram Singh, S/o Shri Tulsii Ram, Substitute Safaiwala, under Senior Supdt. (C&W), Northern Railway, Moradabad.
10. Shri Rajinder Singh, S/o Shri Bhim Singh, Substitute Safaiwala, under Senior Supdt. (C&W), Northern Railway, Moradabad.
11. Shri Shyam Babu, S/o Shri Bidrawan, Substitute Safaiwala, under Senior Supdt. (C&W), Northern Railway, Moradabad.
12. Shri Harish Kumar, S/o Shri Bidrawan, Substitute Safaiwala, under Senior Supdt. (C&W), Northern Railway, Moradabad.

- APPLICANTS

(By Advocate - Shri B.S. Mainee)

Versus

Union of India through

1. The General Manager, Northern Railway, Baroda House, New Delhi
2. The Divisional Rly. Manager, Northern Railway Moradabad.

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3. The Asstt. Personnel Officer (M), Divl. Railway Manager's Office, Northern Railway, Moradabad.

4. The S.S.E. (C&W), Northern Railway, Moradabad.

- RESPONDENTS

O.A. No. 1837 of 1997

1. Shri Pati Ram, S/o Shri Munna Lal, Substitute Safaiwala, under Senior Supdtt., (C&W), Northern Railway, Moradabad.

2. Shri Mehdi Hassan, S/o Shri Abrar Hussain, Substitute Safaiwala, under Senior Supdtt. (C&W), Northern Railway, Moradabad.

3. Shri Kaloo, S/o Shri Shiv Charan, Substitute Safaiwala, under Senior Supdtt. (C&W), Northern Railway, Moradabad.

4. Shri Ram Avtar, S/o Shri Lakhan Singh, Substitute Safaiwala, under Senior Supdtt (C&W), Northern Railway, Moradabad.

5. Shri Kuldip Singh, S/o Shri Brij Nandan Pd., Substitute Safaiwala, under Senior Supdtt (C&W), Northern Railway, Moradabad.

6. Shri Ram Avtar II, S/o Shri Fulsi Singh, Substitute Safaiwala, under Senior Supdtt (C&W), Northern Railway, Moradabad.

- APPLICANTS

(By Advocate - Shri B.S. Mainee)

Versus

Union of India through

1. The General Manager, Northern Railway, Baroda House, New Delhi

2. The Divisional Railway Manager, Northern Railway, Moradabad.

3. The Asstt. Personnel Officer (M), Divisional Rly. Manager's Office, Northern Railway, Moradabad.

4. The S.S.E. (C&W), Northern Railway, Moradabad.

- RESPONDENTS

O.A. No. 1838 of 1997

1. Shri Mohd. Firoz, S/o Shri Pawan Baksh, Substitute Safaiwala, under Senior Superintendent (Carriage & Wagons) Northern Railway Haridwar.

2. Shri Mukesh Kumar, S/o Shri Jai Pal Singh, Substitute Safaiwala, under Senior Supdtt (C&W) Northern Railway, Haridwar.

3. Shri Udai Vir Singh, S/o Shri Durga Singh, Substitute Safaiwala, under Senior Supdtt (C&W) Northern Railway, Haridwar

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4. Shri Krishan Kumar, S/o Shri Shyam Lal,
Substitute Safaiwala, under Senior Supdtt.,
Northern Railway, Hardwar.

-APPLICANTS

(By Advocate - Shri B.S.Maine)

Versus

Union of India through:

1. The General Manager, Northern Railway,
Baroda House, New Delhi.
2. The Divisional Rly. Manager, Northern
Railway, Moradabad.
3. The Asstt. Personnel Officer (M), Divl.
Railway Manager's Office, Northern
Railway Moradabad.
4. The S.S.E. (C&W), Northern Railway,
Hardwar

- RESPONDENTS

O R D E R

By Hon'ble Mr. N. Sahu, Member (A) -

The Office note suggests that jurisdiction point be examined in these cases. As all the three Original Applications deal with identical points and the issue involved is common, these are disposed of by this common order.

2. This applications have come up before me on admission. I will take the facts of one case -O.A.1836 of 1997. There are 12 applicants. They are substitute Safaiwalas. They admittedly worked under the Senior Superintendent (Carriage & Wagon), Moradabad. The address given in the application is also of Moradabad. Except the respondent no.1 the General Manager, Northern Railway, New Delhi all the three other respondents are located at Moradabad. The impugned orders against which the application is made are two in number. They are -
(1) impugned order No. 723-E/EP/ERS-III/96 dated 7.7.1997 passed by the Asstt. Personnel Officer (M), Northern

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Railway, Moradabad; and (ii) impugned order No. 723-E/EP/ERS-III/96 dated 1.8.1997 passed by the Asstt. Personnel Officer (M), Northern Railway, Moradabad. The first order under challenge was issued on 7.7.1997 by the Office of the DRM, Moradabad to the applicants who are admittedly the residents of Moradabad. The second order impugned is of 1.8.1997 and the same is not annexed to the Original Application. Impugning an order which is not placed on record is impermissible. Neither the respondents nor the Court has any occasion to go through the points in dispute and the reasons all the above facts indicating that the Bench having for the decision given in the impugned order. When Moradabad jurisdiction should hear these OAs was pointed out, the learned counsel states that the cause of action has partly arisen in Delhi because an appeal filed by the applicants against illegal action taken by the DRM Moradabad under pressure of the Union has not been decided and orders of termination have been passed. On 12.7.1997 vide Annexure-A-7 appeals are made against the show cause notice to the Assistant Personnel Officer (M), Northern Railway, Moradabad, by each of the affected applicants (refer to pages 46 to 57 of the OA). For the reasons mentioned in those appeals/representations they have challenged the show-cause notices issued to them proposing to terminate their services. There is another common representation/appeal to the General Manager (Personnel), Northern Railway, Bareda House, New Delhi by all the applicants against the show-cause notice dated 7.7.1997 praying for alleged intervention against the malafide action which had been initiated against the applicants.

3. When the question of jurisdiction was pointed out to Sri Maines, learned counsel for the applicants, he states that the applicants having put in the requisite number of days as casual labourers have been

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conferred temporary status and under Para 2511 of the Indian Railway Establishment Manual they enjoy all the rights and benefits admissible to temporary Railway servants. It is also made clear in that para that rights and privileges admissible to such casual labourers also include the benefit of Discipline & Appeal Rules. Shri Mainee submits that under the Railway Servants (Discipline & Appeal) Rules, 1968 there is a right of appeal against an order of termination. He referred in this connection to Rule 18 of the Railway Servants (Discipline & Appeal) Rules, 1968. Shri Mainee's point is that the applicants had a right to appeal to the General Manager against the order of termination and as that appeal has been filed before the General Manager (P) Northern Railway, New Delhi, there is a partial cause of action accruing to them at New Delhi.

4. I have carefully considered the submissions. The records also show that in the verification forms all the applicants have given their addresses of Moradabad. The applicants are residents of Moradabad. They are working under the Railway authorities at Moradabad. The show cause notices were issued by the authorities at Moradabad and the final orders which are not annexed are also said to have been issued by the authority at Moradabad. The appeal to the General Manager dated 14.7.1997, as mentioned in the OA at para 5.13, page 10, was made before the final order was passed on 1.8.1997. The appeal was made against a show-cause notice and not against any final order. Thus, the said appeal cannot be taken cognizance of as an appeal for the purpose of Discipline & Appeal Rules.

I am not discussing for the moment the question whether

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an appeal can lie against the orders terminating the services of a casual labourer. Rule 18 ibid says that an order against which an appeal lies can be made only by a Railway servant. The casual labourers who acquire temporary status will not be brought to a permanent establishment or treated as in regular employment on Railways until and unless they are selected through regular selection board for 'Group D' posts, as envisaged in Para 2005 of the Indian Railway Establishment Manual, Vol. II (Revised Edition 1990).

5. In this case there is no partial cause of action arising in Delhi because there is no impugned order of the General Manager which is challenged here. Even assuming that an appeal lies to the General Manager under the Discipline & Appeal Rules, as mentioned above, the appeal was made against the show-cause notice and not against any final order. Therefore, that is not an appeal against any order inflicting any punishment. I am, therefore, of the view that the cause of action wholly and completely arose only in Moradabad and no part of the cause of action has arisen in Delhi.

6. For the reasons stated above, the present Original Applications cannot be entertained by the Principal Bench, New Delhi. The applicants, however, can always file an application seeking permission of the Hon'ble Chairman under Section 25 of the Administrative Tribunals Act, 1985 and with the leave of the Hon'ble Chairman the Original Applications may be filed before the Registrar of the Principal Bench. As this Bench has no jurisdiction, these applications

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cannot be entertained. The Registry is directed to return these Applications to the applicants.

(W. Sahu)
Member (A)

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rkv.

mls
(विमला देवी)
IMLA DEVI
Minister
Pradesh Tribunal
Bench, Fardes House
New Delhi-110001

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