

O.A. NO. 416/1997

NEW DELHI THIS 02ND DAY OF APRIL 2002

HON'BLE SHRI GOVINDAN S. TAMPI , MEMBER (a)

Sh. Radha Kishan Prasad S/o Sh. Makhan Saha,
Ex. Casual Labour , Under Inspector of Works
North Eastern Railway, Raxaul.

and 54 others (names separately mentioned in Annexure
'A' to this order)

.....Applicants

(By Shri B S Mainee, Advocate)

VERSUS

1. Union of India through
Secretary, Min. of Railways, Railway Board,
Rail Bhayan, Raisina Road
New Delhi
2. The General Manager,
North Eastern, Gorakhpur
3. The Assistant Engineer, North Eastern Railway,
Narkatia Ganj

.....Respondents

(By Shri P.S. Mahendru, Advocate)

O R D E R (ORAL)

55 applicants in this OA (Radha Kishan Prasad and 54 others) , are aggrieved that their services have not been re-engaged as casual labour though a number of their juniors have been given the said benefit.

2. Heard S/Shri B S Mainee and P S Mahendru, learned counsel for the applicants and respondents respectively.

3. The applicants who were engaged as casual labourers under the Inspector of Works/Permanent Way Inspector, Northern Eastern Railway, Raxaul, under respondent No. 3, during 1983-84, but dis-engaged thereafter have not

— 2 —

(67)

been re-engaged. A number of other, who were juniors to them but similarly dis-engaged have been re-employed. Their repeated attempts with the railway authorities for redressal of their grievances had not succeeded. Railway Board Circular No. Eng. II-DO/CL/25 dated 22.10.80 and Eng. II-80/CL/file dated 4.9.80 have laid down that persons who had worked in the past and have been dis-engaged shall be given preference for re-employment. In spite of the above, the applicants have not been favoured with the correct decisions and have not been placed on the Live Casual Labour Register (LCLR). Thus even after having served for more than 16 to 20 years they have been arbitrarily denied the benefit of continued employment, while they were in accordance with Railway instructions entitled for regularisation.

3. In the reply filed on behalf of the respondents it is denied that except 36 casual labourers who were working on the basis of the Tribunal orders in OA No. 2939/92, anybody junior to the applicants has been re-engaged. The applicants in fact had been engaged as casual labourers on daily rated wages in broken spells, during 1981- 83 as part of Project Work. None of them has completed more than 240 days in a calendar year. While the instructions referred to in the OA are not denied. The respondents point out that the applicants can be engaged only on the availability of the work and depending on their related position in the seniority list. It is also pointed out that the names of the applicant do appear in the Live Casual Labour Register and would be relied upon as and when necessary.

— 2 —

- 3 -

68

4. During the oral submissions both Shri Mainee and Shri Mahendru reiterated their respective pleas. While Shri Mainee insisted that juniors to the applicants have been re-engaged at the cost and detriment of the applicants who were seniors, Sh. Mahendru pointed out that the respondents would be prepared to consider the case of the applicants also favourably, if persons who are in fact junior to the applicants have been re-engaged.

5. I have carefully considered the matter. While the applicants aver that their services have been dis-engaged while juniors have been preferred respondents point out that except for 36 people who have been protected by the Tribunal order none who is a junior to the applicant has been re-engaged. Shri Mahendru has fairly considered that respondents would be prepared to consider the case of the applicants also if any one other than the 36 persons above mentioned who is junior to any of the applicants has been re-engaged ~~any~~ in preference to the applicants. This I find is a proper position to take.

6. Keeping the above in mind, I dispose of this OA with the direction to the respondents to consider the case of the applicants for re-engagement, if anyone junior to them, other than the 36 persons who have been re-engaged on the basis of the Tribunal's order in OA No.2939/92, has been re-engaged and continues to be so. The applicants shall

- 4 -

69

within a month from the date of receipt of this order,
furnish ^{to the respondents} with necessary supporting details the cases of such
junior (s), who has (have) been so re-engaged and the
respondents shall within one month thereafter take
appropriate action to re-engage them, as promised by the
learned counsel for the respondents. No cost.

(Govindan S. Tammi)
Member (A)

Patwal/