

7

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA NO. 734/89

DATE OF DECISION: 15. 5. 90

SHRI LAIBANO & OTHERS
SHRI D.N. GOBURDHUN

APPLICANTS
ADVOCATE FOR THE APPLICANTS

VERSUS

UNION OF INDIA & OTHERS
SHRI P.S. MAHINDRU
SHRI O.P. KSHTRIYA

RESPONDENTS
ADVOCATE FOR RESPONDENTS NO. 1
ADVOCATE FOR RESPONDENT NO. 2

CORAM:

THE HON'BLE MR. T.S. OBEROI, MEMBER (J)
THE HON'BLE MR. I.K. RASGOTRA, MEMBER (A)

JUDGEMENT

(Delivered by the Hon'ble Mr. I.K. Rasgotra, Member (A))

Shri Laibano with 14 others working under the Senior Engineer, Construction Division, Northern Railway, Karnal have filed this application under Section 19 of the Central Administrative Tribunals Act, 1985. Their grievances against the respondents are:-

- (a) That they have not been absorbed against permanent posts even after they have rendered 10/11 years.
- (b) They have not been paid on the principle of equal pay for equal work as compared to regular workers.
- (c) They have been denied the benefit of provident fund, life insurance, pension etc.

They have sought the following reliefs:-

8

- (i) Be made permanent/regular in their respective posts which they are holding in Delhi Division - Karnal-Panipat.
- (ii) Be paid equal pay for equal work.
- (iii) The semi skilled and skilled workers should not be reverted to un-skilled category.

2. The respondents in their written statement have submitted that identical cases in OA Nos. 218/88, 522/88, 981/87 have already been decided by another Bench of the Tribunal vide judgement delivered on 22.9.1989 and that this application may also be disposed of accordingly. MP-2715/89 filed by the respondents on 23rd November, 1989 is also to the same effect.

In the written statement the respondents have stated that the applicants are working in the Construction Organisation and they had been granted temporary status from the due date after they had put in 120 days continuous service. They have further affirmed that they are given all benefits as admissible to temporary labour with temporary status such as passes, PTO, benefit of contributing to provident fund. The petitioners however are not entitled to pensionary benefits. It has further been submitted that out of 15 applicants, applicants at serial No. 1, 5, 6, 7, 10, 11, 13, 14 & 15 have been screened against 40 per cent construction quota and given the benefit of pension and group insurance scheme. Applicants at serial No. 2, 3, 4, 8, 9 & 12 are not yet due for screening as per their seniority and have not been extended similar benefits. There is no discrimination against the applicants as they being casual labourer of a

construction project, cannot claim equality with the regular workers. It is implied in para-4 (d) of the written statement that the petitioners will be considered for absorption as permanent employees on availability of permanent posts after passing the screening in the order of their seniority. The construction division at Karnal has already been closed down on completion of the doubling work and residue headquarters have been shifted to Delhi. The issues raised and the point of law and fact involved in this application are essentially the same as in OA-218/88, disposed of vide judgement of this Tribunal delivered on 22.9.1989. The learned Counsel of the applicant also agrees with this appreciation.

In view of the conspectus of the case we order and direct that the respondents:

- i) shall take decision on the proposal for sanctioning permanent posts for the maintenance of the track completed by the Construction Division expeditiously. In case these posts are already sanctioned the candidates already screened viz., S.Nos. 1,5,6,7,10,11,13,14 & 15 should be absorbed in the posts they were holding and others who have not yet been screened shall be considered for permanent absorption, after assessing their suitability under the relevant rules. Such of those applicants who are rendered surplus should be provided work if they report to

2

10

Construction Division at Ghaziabad or any other place depending upon the availability of the work. If any permanent vacancies arise at Karnal they shall be accommodated at Karnal in those vacancies in accordance with their respective seniority, if they opt for the same.

- ii) shall determine the inter-se seniority in accordance with the normal rules on regularisation.
- iii) are restrained from reverting the applicants who are in semi-skilled and skilled categories to the unskilled category so long as vacancies exist in semi-skilled and skilled categories.
- iv) In view of the respondents' affirmation that the applicants are being paid their pay and allowances, as applicable to the casual labours who have attained temporary status, we refrain from issuing any specific direction in this regard to the respondents. If, however, the applicants wish to see the details of pay and allowances being paid to them, the relevant muster roll-cum-pay sheet may be shown to them as required.

The above orders are made in line with the directions in the judgement delivered by this Tribunal on 22.9.1989 in OA 218/90.

2

10A

The interim order passed on 19.5.1989 shall stand vacated w.e.f. the date of this pronouncement.

There shall be no orders as to the costs.

Dal Singh
(I.K. Rasgotra) 15/5/90
Member (A)

Desai
(T.S. Oberoi) 15/5/90
Member (J)