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IN THE CENTRAL ADMINISTRATILVE TRIBUNAL

PRINCIPAL BENCH. NEW DELHI.

Regn.No.OA 2273/1990 Date of decision: 06.11.1992

Shri Bhaga and Others ...Applicants

Vs.

Union of India & Others ....Respondents

For the Applicants ...Shri V.P. Sharma, Counsel

For the Respondents ..Shri Jagjit Singh, Counsel

CORAM.

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? Yes.

2. To be referred to the Reporters or not? Yes.

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JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K. Kartha, Vice Chairman(J))

Common questions of law have been raised in a batch of applications relating to the persons who claim to have worked as casual labourers in the Western Railway. The facts of each case are, however, different and, therefore, it is proposed to dispose of the applications separately in the light of the legal position discussed hereinafter.

2. We have gone through the records of the case and have heard the learned counsel for both parties. Shri V.P. Sharma, learned counsel for the applicants submitted that the applicants are illiterate, that they belong to the lowest strata of society, that they were disengaged on various dates in various years due to paucity of work, that the respondents have engaged several persons after the disengagement of the applicants, that the applicants could not afford to seek redressal of their grievances through courts in proper time and that the respondents were bound to reengage them pursuant to the directions of the Supreme Court in Inderpal Yadav Vs. Union of India, 1988(2) SCC 648 and the numerous administrative instructions issued by the Railway Board on the subject, without forcing them to knock at the doors of the Tribunal. As against the above, Shri Jagjit Singh, the

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learned counsel for the respondents, argued that the applicants had voluntarily abandoned the work, that they were not discharged due to completion or non-availability of work, that the applicants have not made representations to the respondents regarding their grievance and that the decision of the Supreme Court in Inderpal Yadav's case and the administrative instructions relied upon by the applicants are not applicable to the case of the applicants.

3. The learned counsel for the applicants relied upon the judgment dated 17.04.1990 in OA 1591/1989(Lila Ram and Others Vs. Union of India and Others) and contended that the applicants in that case have been reengaged pursuant to the judgment of the Tribunal and that the applicants being senior to them, deserve to be reengaged as casual labourers. In that case, the Tribunal had, by relying upon its earlier decision dated 16.3.1990 in OA 78/1987 (Beer Singh Vs. Union of India and Others), rejected the contention of the respondents that the applicants had abandoned service on the ground that in such a case, the employer was bound to give notice to the employee calling upon him to resume duty and in case the employer intended to terminate his service, he should hold an enquiry before doing so. As against this, the learned counsel for the respondents argued that the aforesaid decisions dealt with cases of casual labourers who had acquired temporary status and were distinguishable.

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According to him, in the instant case, the applicants who had worked as project casual labourers had not acquired temporary status after working for 360 days in a year continuously.

4. As regards period of service rendered by the applicants, there is divergence in the versions of both parties. According to the learned counsel for the applicants, the relevant records are available in the office of the respondents. The learned counsel for the respondents contended that the onus lies on the applicant to produce the evidence regarding the period of service rendered by each of the applicants.

5. We are of the opinion that in the facts and circumstances of the case, the respondents should deal with the case of each of the applicants for reengagement/regularisation after verifying the relevant records and in the light of the scheme prepared by them and as approved by the Supreme Court in Inderpal Yadav's case and the relevant administrative instructions issued by them on the subject. During the hearing of these applications, the learned counsel for the applicants stated at the Bar that all the applicants have been reengaged by the Railways after verifying the relevant records and on the basis of the interim orders passed by the Tribunal. We are of the view

that irrespective of whether the applicants are covered by the scheme prepared by the respondents pursuant to the directions contained in Inderpal Yadav's case and the various administrative instructions issued by them, those who have been so reengaged should be continued in service so long as the respondents need the services of casual labourers and they should not be replaced by persons with lesser length of service and outsiders. We do not consider it necessary for the disposal of these cases to go into the question whether the applicants had abandoned service or whether they have approached the Tribunal belatedly, as the applicants belong to the lowest strata of society.

6. In view of the foregoing, we may consider the facts of OA 2273/1990. There are 7 applicants in this case who claim to have worked as casual labourers under the respondents during the period 1965-1981. The respondents have stated in their counter-affidavit that applicant Nos. 1, 3, 4 and 5 and 6 have not worked with the Railways. The applicants claim to have worked for more than 240 days and that they have acquired temporary status after working for 120 days continuously. The respondents have contended that the applicants who were project casual labourers had not attained temporary status as they have not worked for 360 days continuously.

7. OA 2273 of 1990 is disposed of with the following orders and directions:-

(i) Irrespective of whether the applicants are covered by the scheme prepared by the respondents pursuant to the directions contained in Inderpal Yadav's case and the various administrative instructions issued by the respondents on the subject of reengagement and regularisation of casual labourers, the applicants who have been reengaged pursuant to the interim order passed by the Tribunal should be continued in service so long as the respondents need the services of casual labourers and they should not be replaced by persons with lesser length of service and outsiders. The interim order passed on 13.11.1990 is hereby made absolute.

(ii) The respondents shall consider the case of the applicants for absorption and regularisation after verifying the relevant records and in the light of the scheme prepared by them and as approved by the Supreme Court in Inderpal Yadav's case and the relevant administrative instructions issued by them.

(iii) There will be no order as to costs.

(B.N. DHOUNDIYAL)
MEMBER(A)
06.11.1992

(P.K. KARTHA)
VICE CHAIRMAN(J)
06.11.1992

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