

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA No. 2357/90

Date of decision: 27-11-92

Sh. Mahabir

Applicant

Versus

Union of India

Respondents

For the applicant

Sh. V.P. Sharma, Counsel.

For the respondents

Sh. B.K. Aggarwal,
Counsel.

CORAM

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

Hon'ble Sh. B.N. Dhoudiyal, Member (A)

1. Reporters of local papers may be allowed to see the judgement? Yes
2. To be referred to the Reporters or not? No

JUDGEMENT

(Of the Bench delivered by Hon'ble Sh. B.N.
Dhoudiyal, Member (A)

This OA has been filed by Sh. Mahavir S/o Sh. Prabhakar Lal, who claims to have acquired the status of a temporary Railway servant. He is aggrieved by disengagement of his service. He was initially engaged as Loco Khalasi in the year 1977 and acquired temporary status on completion of 120 days continuous service. Some of his junior colleagues were given employment pursuance to the decision of the Principal Bench of this Tribunal dated 18.5.90 in OA No. 166/89 - Gurdiyal Singh & Others Vs. Union of India & Others. The

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applicant claims the benefit of that judgement as also protection of Section 25 F of the Industrial Disputes Act, 1947. He prays that direction be given to the Respondents to absorb him on regular basis and his disengagement from service may be declared illegal.

2. On 26.7.91 an interim order was passed by this Tribunal directing the Respondents to maintain status quo, as regards the continuance of the applicant as Hot Weather Waterman. This interim order has been extended till date.

3. The respondents have raised some doubt regarding the identity of the applicant but have admitted that one Sh. Mahavir Singh has been working since 23.4.91 continuously. In the cause title to the application, the name of the applicant is mentioned as "Mahabir" but in the verification clause, he has given his full name as "Mahabir Singh". He was initially engaged as Casual Labourer on daily wages by the Inchage, Loco Shed, Rewari on 16.12.77. They have contended that the decision of the Tribunal in case of Gurdial Singh cannot be made applicable to him retrospectively as his services were terminated long time ago. Similarly, Section 25 F of the Industrial Disputes Act does not permits the applicant to approach the Court after lapse of such a long time. They have explained that every year sanction of engagement of Hot Weather Waterman for a specific period is sought from the Competent Authority, and the services of the persons engaged for this purpose automatically come to an end after the expiry of the period of sanction. Only in case where stay orders of

the Tribunal are in operation, some persons have been retained beyond this date.

4. We have gone through the records of the case and heard the 1d.counsel for both parties. This Tribunal has considered similar cases in Harish Chandra & Others vs. Union of India & Others (OA 304/91 and connected matters) decided on 5.12.91 and in Bishamber & Others vs. Union of India & Others (OA 1994/90 and connected matters) decided on 12.2.92, ~~in another~~ judgement given on 18.11.92 (OA 580/92-Sh. Harish Chandra & Ors. vs. Union of India); it was observed that :

" In our considered opinion, the problem of Hot Weather Watermen who have worked for several years in the Railways, could be solved only by making a rational scheme to absorb them in each Division of the Railways along with the other casual labourers, depending on the availability of regular vacancies. For the purpose of their regularisation, the broken period of service put in by Hot Weather Watermen should be condoned without prejudice to the claims of those who have actually worked continuously for longer periods and the total period rendered by them should be taken into account. In framing the scheme, the respondents should take the various departments of the Division as a single unit (e.g. the departments of Loco-Engineering, Traffic, Mechanical, Commercial, Stores, Signal and Telecommunications, Medical, Electrical, Workshop, etc.) The respondents shall prepare such a viable scheme as expeditiously as possible, as already directed in the case of Bishamber & Others, mentioned above. "

5. We reiterate the same view. The respondents shall prepare a scheme as directed in the aforesaid OA and implement the same. They shall accommodate the applicant as casual labourer in the Division of the Railway, where he is presently working. In case vacancy is not available in that Division, he shall be adjusted in other Division, depending on the length of service put in by him.

6. The interim order passed on 26.7.91 as modified above, is hereby made absolute. The respondents are also restrained from inducting fresh recruits as casual labourers in any of their Divisions, wherever located in the country till the applicant and the similarly situated persons are regularised and absorbed in the suitable Group D posts.

7. The application is disposed of on the above lines. There will be no order as to costs.

B.N.Dhundiya 27/11/92

27/11/92

(P.K.Kartha)

Member(A)

Vice Chairman(J)

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