

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

Transfer Application No. 91 of 1987

along with

T.A. No. 95 of 1987

Nanhak & Others Applicant

Versus

Union of India & Others Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. K. Obayya, Member (A).

(By Hon'ble Mr. Justice U.C. Srivastava, V.C.)

In these two connected transferred applications filed initially as writ petition before the High Court against the reversion orders dated 1.7.1985 and 24.6.85 passed in T.A. No. 95 of 1987 and 91 of 1987 respectively reverting all the applicants to the post of Khalasi from higher posts held by them by way of promotion is under challenge. In T.A. No. 87 of 1987 all ten applicants were working in Karela Road-Bina, Jayant District Mirzapur under District Engineer (construction) Eastern Railway. Applicant Nos. 1, 8 and 9 were initially appointed on the post of casual labour in the various categories in 70's except no. 9 who was appointed first in 1969. In the year 84 in view of Railway Board circular dated 3.7.1984 for giving temporary status to those who have worked for 360 days, they were medically examined and after being found fit were given temporary status. Applicant no. 1 entered in service first as Gangman then became Khalasi whereafter he got promotion as Hammer man in the grade of Rs. 210-Rs. 270/- and thereafter in the grade of Rs. 260-400/- before getting temporary status, but for

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applicant No. 1 who entered service as casual black smith and was working as such when he attained temporary status and applicant No.3 who entered into service with others as carpenter ~~was~~ working against on higher posts even by getting more than one jump when they attained temporary status. In T.A. No. 91 of 1987 all the applicants who were appointed initially on casual basis in different trades on different dates had earned more than one promotional posts and grades. Another circular was issued by Railway Board on 17.12.1984 which contemplates that the project casual labours who were working in higher grades may be treated as 'Temporary', in their existing capacity in higher grades provided they submit a declaration that they are agreeable to pay back the difference of pay on this account if the above fixation in higher grade is not agreed to by Railway Board. According to the applicants they had submitted their declaration in terms of the said circular and their Board fixation in higher grade was pending before the Railway yet ignoring these circulars as well as circular dated 21.5.1956 re-iterated vide circular No. E(NG)-I-695-31 dated 5.2.1979 providing that no reversion for officiating services after completing 18 months should be made without following procedure under C.C.A. rules the reversion order in question were passed reverting all the applicants with these two orders.

2. The respondents have opposed the application and have filed a counter-affidavit. It has been stated that it is true that casual labour were medically examined after they requested for the same which was made by all the categories of casual labour viz Material

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chaset, black smith, carpenter, Mason, Fitter, Hammerman, storeman etc. and were granted temporary status on ad hoc basis i.e. provisionally. This was done on a written declaration by them in this behalf. The work of the project in which applicants were working has been completed in all respects and goods as well as passenger traffic has started moving on the track. The promotional grade was confined to the period for which sanction was granted and so long their services are required in connection with completion of project. It is because of reduction of work and establishment applicants have reverted, though in some cases it is only change of designation without any change in pay scale and emoluments and as a matter of fact juniors have been reverted and those applicants were junior to several ^{others} that is why they have been reverted. In the case of two of the applicants assertion regarding more than one promotion or pay scale as stated has been refuted. It has been stated that some of the project labours have been absorbed against 40% reserve posts and the applicants, non absorbed one will also enjoy same of the facilities available to the absorbed one though not all. The Railway Boards circular of 18 months on which reliance has been placed by the applicant has been stated to be ~~is~~ applicable to permanent staff and not project labour including those who have been granted temporary status. The promotion given on ad hoc basis and on the basis of District Seniority were to meet casual need and reversion is not by way of punishment. The question of repromotion can again be considered if in future any big project is allotted to the area.

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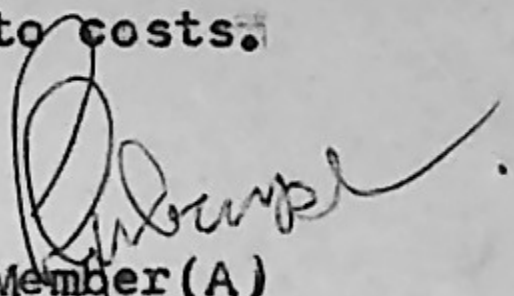
3. The facts stated above would indicate that the applicants who are working for last about 20 years or little more or less were working on a project on which they were given promotion and higher pay scale but as the project work has finished and establishment has practically been disbanded, they have not been retrenched, in view of their status viz. temporary status and availability of work, some of such casual workers have already been absorbed and the case of remaining one obviously would be considered when their turn comes in order of seniority. The question of retrenchment may not arise in view of their seniority and secured position and existence of several projects and casual labour were engaged by various railways in different sections from time to time and the provisions of Industrial Disputes Act which applies, gives certain protection and rights to the casual workers and provides for safeguards in the matter of termination and employment. The promotions given to the applicant was ad hoc and as such reversion in exigency of situation can not be said to be by way of punishment or violative of Article 311 of the Constitution of India. It has not been stated by the applicants that they have been reverted by more than one grade when vacancies are available or juniors have been retained. In that event reversion order to that extent would have been illegal. But as it is and in view of reduction or disbanding of the establishment the reversion order

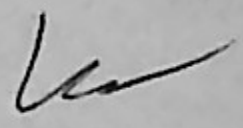
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can not be said to be illegal as 18 months circular does not apply to casual labour who have yet not been empanelled after having being adjudged as suitable. Accordingly, both the applications are dismissed with the observation that the applicant be considered for absorption and promotion ad hoc or otherwise in accordance with seniority that is the period of length of service. No order as to costs.


Member (A)


Vice-Chairman

Allahabad dated ^{18 July}~~29th April~~, 1992.

(RKA)