

ANN. NO - I

RECORDED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

ALLAHABAD

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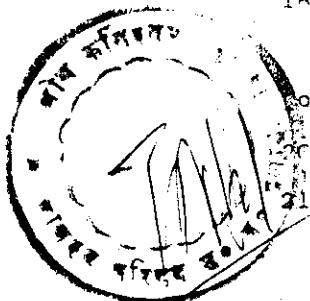
DATED: THE 7TH DAY OF OCTOBER 1998

COR. HON'BLE MR. S.I. VIN, J.M.

ORIGINAL APPLICATION NO. 620 C 1992

1. Harish Chandra S/o Jai shwar
R/o village Guwaiyan, District Chandrapur.
2. Firaq Daraian S/o Dara Dara
R/o Kukuva, District Hamirpur.
3. Rajian
4. Shri Chandra S/o Lall c
R/o Karahiya District Hamirpur.
5. Jiya Lal S/o Bahari District Hamirpur.
6. Bhavani Deen S/o Tahalu District Hamirpur.
7. Ram Das S/o Tahlu R/o Khan deliwan, distt.Hamirpur.
8. Jai Ram S/o Mata Deen R/o Naiya Ka Purva, Distt.Hamirpur
9. Sri Lakhan Ram S/o Shivka, Distt. Hamirpur.
10. Om Prakash S/o Mukund Lal, Distt. Hamirpur.
11. Binda Prasad S/o Dwarika Kardiya, Distt. Hamirpur.
12. Ram Prakash S/o Ram Nath Distt. Hamirpur.
13. Gauri Prasad
14. Kanta Prasad S/o Ram Bharosa Distt. Hamirpur
15. Baboo S/o Sadhu Distt. Hamirpur.
16. Bala Prasad S/o Funa Distt. Hamirpur.
17. Mool Chandra S/o Shiv Pal Distt. Hamirpur.
18. Jogeshwar S/o Ram Kumar, R/o Khandoly
Distt. Hamirpur.
19. Frahlad S/o Ram Das R/o Arjor, Distt.Hamirpur.
20. Mata Deen S/o Jagannath, R/o Gohi Distt.Hamirpur.
21. Bhagwan Das S/o Jevabhar Lal R/o Shivpura,
Distt. Hamirpur.

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22. Bhagwan Dass, S/o Jawahar R/o Shippura, Distt. Hamirpur.
23. Shripal S/o Saikhu Lal, Distt. Hamirpur.

..... Applicants

C/A Shri Raj Kamal Rajan, Advocate.

Versus

1. Union of India through Secretary,
Ministry of Railway, Rail Bhawan, New Delhi.
2. General Manager, Central Railway, Bombay V.T.
3. Divisional Railway Manager, Jhansi.
4. Permanent Works Inspector,
Karvi, under D.R.M., Jhansi.

..... Respondents

C/R Shri A.K. Gaur, Advocate.

ORDER

BY HON'BLE MR. S.L.JAIN, J.M.-

This is an application under section 19 of the Administrative Tribunal Act for a direction to respondents nos. 2 and 3 to re-engage the applicants for their jobs, after verifying the original records provide all privileges and benefits of post of temporary status, arrears of salary from the date of their disengagement, preparation of seniority list of casual labours, i.e. to say LiVe Casual Register along with copy of petition.

2. The applicants' case in brief is that they were deployed for project work as casual labours in the Railway Department under the respondents nos. 2 and 3, have served the respondents under the Inspector of Works posted at Chitrakoot Dham, Karvi, district Banda under supervision of D.R.M., Jhansi as per Annexure-A1. All the applicants have worked for more than a year and provided with Casual Labour Card. They were ^{not} engaged after the date as mentioned

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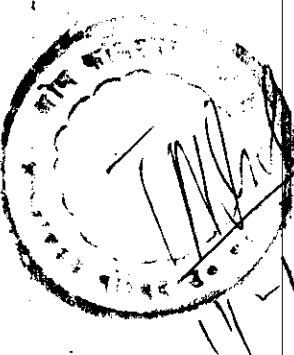
in the chart, they are entitled for regularization and temporary status along with the job. Certain new hands were deputed as they have completed more than 120 days as casual labour and hence they are entitled for permanent status. In view of Circular annexure-A3 dated 6.10.86, Annexure-A4, dated 2.9.87, the judgment of the Tribunal passed in case of another casual labour Annexure-A6, they are entitled for temporary status along with all consequential benefits through they have been issued casual labour cards but it does not specify the correct description, no notice for retrenchment was given, juniors have been re-engaged, hence this O.A. for the above said reliefs.

3. The respondents resisted the claim alleging that there is no cause of action in favour of the applicants, the claim is barred by time, no person junior to the applicants was appointed after 1988, no casual labour was appointed, the claim is vague one as date of appointment is missing, period of working is not clearly borne out, casual labour card ^{is} forged and fabricated, some of the applicants have worked in a broken span in a project work, hence prayed for dismissal of the O.A. with costs.

4. The applicant submitted the rejoinder stating that casual labour cards are issued in 1991 and they have filed the O.A. in 1992 within one year, hence the claim is not barred by time.

5. This fact is not disputed that their casual labour cards were issued in 1991. The O.A. is being filed within one year of issue of the casual labour cards. Further the grant of a temporary status is a recurring cause of action which once a labour acquires the status, entitled to be declared so until and unless for one or the other reason his right is barred by time. Hence it is held that the claim is not barred by time.

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6. The applicants have come before this Tribunal on the allegation that juniors to them have been appointed. This is the cause of action for the applicants to come before this Tribunal. It cannot be said that there is no cause of action in favour of the applicants.

7. It cannot be said that the O.A. lacks in, detailed particulars for the reason that annexures attached to the O.A. are part of it. Annexure-A1 clearly mentions the period of the work of each of the casual labour, hence it cannot be said that the O.A. is vague one.

8. Applicant no.1 Harish Chandra is said to have worked from 6.2.83 to 18.1.85. Annexure-R.A.1 is perused. If annexure R.A.2 is perused, he is belied as ~~the correct work~~, he has worked since 2.8.83 to 2.4.84, total working days 245.

9. Applicant no.2 Prem Narain is said to have worked as per Annexure A1 from 2.8.83 to 3.2.84. On perusal of Annexure-R.A.3 he is falsified by his own documents which states that he has worked only for 30 days.

10. Applicant no.3 Rajjan is said to have worked as per Annexure-A1 from 3.6.83 to 18.4.84. No casual labour card has been produced, hence it is hereby held that he has failed to establish his working days.

11. Applicant no.4

Shri Chandra is said to have worked as per Annexure-A1 from 20.7.82 to 18.8.84. On perusal of the casual labour card Annexure-R.A.4, I find that he has worked from 20.9.82 to 21.5.83, total working days 152, further he has worked from 1.6.83 to 18.7.83 total working days 48 days, again he has worked from 23.10.83 to 18.8.84, total working days 301. Thus the fact of continuous working from 20.7.82 to 18.8.84 is not established.

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12. Applicant no.5 Jiya Lal is said to have worked as per annexure A.1 from 19.8.82 to 18.6.84. The casual labour card Annexure-R.A.5 discloses that he has worked from 19.8.82 to 18.7.83, total working days 334 days, further he has worked from 3.10.83 to 18.2.84, total working days 138. Again he worked from 10.3.84 to 18.6.84 total working days 92. Thus it is also not established the continuous working period from 19.8.82 to 18.6.84.

13. Applicant no.6 Bhawani Deen is said to have worked as per Annexure-A1 from 2.10.83 to 18.4.84. Vide Annexure R.A.6 it is found that he has worked from 22.10.83 to 18.4.84, total working days 180.

14. Applicant no.7 Ram Das is said to have worked as per Annexure-A1 from 20.10.83 to 18.4.84 which is corroborated by Annexure R.A.7, total working days is 182.

15. Applicant no.8 Jai Ram is said to have worked as per annexure-A1 from 25.5.83 to 18.8.84. Annexure R.A.8 discloses his working period from 25.5.84 to 18.8.84 total working days 86. Thus he is also belied by own document.

16. Applicant no.9 Lakhman is said to have worked as per Annexure-A1 from 19.10.83 to 18.4.84 which is corroborated by Annexure R.A.16, total working days 183.

17. Applicant no.10 Om Prakash is said to have worked as per Annexure-A1 from 25.10.82 to 28.2.84. Annexure R.A.10 discloses his working period from 25.10.83 to 11.1.84, total working days 79. He is also belied by his own document.

18. Applicant no.11 Binda Prasad is said to have worked as per Annexure-A1 from 3.10.83 to 18.2.84, while Annexure

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R.A.11 discloses his working period only 30 days. Thus he is also belied by his own document.

19. Applicant no.1 Ram Prakash is said to have worked as per Annexure-A1 from 10.10.83 to 18.2.84 which is corroborated by Annexure R.A.12, total working days 123.

20. Applicant no.13 Gaya Prasad is said to have worked as per Annexure-A1 from 10.10.83 to 18.2.84. No casual labour card has been filed in this respect. Even he failed to file his own affidavit in this respect. Thus it is hereby held that he fails to establish the said fact.

21. Applicant no.14 Kamta Prasad is said to have worked as per Annexure-A1 from 3.10.83 to 18.2.84 which finds corroboration from Annexure-R.A.13, total working days 140.

22. Applicant no.15 Bala Prasad is said to have worked as per annexure A-1 from 10.10.83 to 18.2.84. Casual Labour Annexure R.A.13 discloses period of working only 30 days. Thus he is belied by his own document.

23. Applicant no.16 is said to have worked as per annexure-A1 from 3.10.83 to 18.2.84 finds support by Annexure-R.A.14 total working period 140 days.

24. Applicant no.17 Mool Chandra is said to have worked as per annexure-A1 from 10.10.83 to 18.10.84. No casual labour card has been filed. He ~~has~~ /not filed his own affidavit Hence it is hereby held that he failed to establish the said period of working.

25. Applicant no.18 Jagashv is said to have worked as per Annexure-A1 from 20.10.83 to 18.4.84 while Annexure R.A.15 discloses his period of working to be from 20.10.83 to ~~18.4.84~~ ^{18.4.84}

18.10.84. Thus he is also belied by his own document and his period of working of only 58 days.

26. Applicant no.19 Prahlad is said to have worked as per Annexure-A1 from 3.10.83 to 3.2.84 which is corroborated by Annexure-R.A.9, total working days 124.

27. Applicant no.20 Mata Deen is said to have worked as per Annexure-A1 from 3.10.84 to 18.4.84 while Annexure-R.A.17 discloses his period of working to be 23.1.85 to 24.2.83, total working days 33.

28. Applicant no.21 Kailash is said to have worked as per R.A.18 from 23.3.85 to 18.5.85, 19.7.85 to 18.8.85, 3.11.86 to 18.11.86. Thus he has worked in broken period for 104 days only.

29. Applicant no.22 Bhagwan Das has worked as per Annexure-R.A.19 from 19.3.85 to 18.5.85, 19.7.85 to 18.8.85, 3.11.86 to 18.11.86, total working days in a broken period is 108 days.

30. Applicant no.23 Pal, his name does not find place in Annexure A1 and no service labour card has been filed in support thereof. Hence it is not established that he has worked for any period.

The aforesaid discussion leads me to conclude that Harish Chandra applicant no.1, Shri Chandra applicant no.4, Shri Jiya Lal applicant no.5, Shri Bhawani Deen applicant no.6, Ram Das applicant no.7, Lekhan applicant no.9 have worked 180 days or more than 180 days in continuation.

32. Applicant no.12 Ram Prakash, Applicant no.14 Kamta Frasad, Applicant no.16 Babu, applicant no.19 Prahlad have

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worked
/ for 123 days, 140 days, 140 days, 124 days respectively.

33. Applicant no.2 Prem Narain, Applicant no.3 Rajjan, Applicant no.8 Jai Ram, Applicant no.10 Om Prakash, Applicant no.11 Bindu Prasad, Applicant no.13 Gaya Prasad, Applicant no.15 Bala Prasad, Applicant no.17 Mool Chandra, Applicant no.18 Jagdishwar, Applicant no.20 Mata Deen, Applicant no.21 Ram Kailash, Applicant no.22 Bhagwan Das have worked less than 120 days and applicant no.23 Shri Pal has not at all worked.

34. The case of the applicants is that they have worked on project work. Hence Annexure A-4 Circular No.E(NG)11184/ CL/41 dated 2.3.81 para-1 is applicable in the present case. This circular provides that seniority list of project casual labour engaged by project organisation will be regularised by Zonal/Construction Railway Administration to cover all project casual labours who have been in employment at any time from 1.1.81 onwards. Para-3 relates to project casual labour who had worked before 1.1.81. In the present case none of the casual labours have worked before 1.1.81. Hence para-3 is not applicable in our case.

35. Annexure-A3 Circular No.220 E 9/2-1/11 Vividh dated 6.6.86 specifically mentions that the project casual labour after completing 180 days of continuous service shall be entitled to a graduated scale of rate of pay which will be worked out 1/30 of the minimum of pay plus the D.A. only. A person who works on project as casual labour is entitled to the same if his period of working is 180 days of continuous service. A person whose service is less than of the said period or is a broken service for 180 days is not entitled to the same relief.

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36. Question of absorption of a regular employment was also a matter which is brought out by Annexure-A5 in which it is also specifically mentioned in para-4 that Railway Administration should in consultation with the recognised unions, evolve suitable guide-lines for an absorption of both project casual labour or/and labour(revenue). Casual labour in regular employment against formal vacancies as well as post sanctioned for De casualisation in a non project casual manner to the extent possible. Thus it was for the Railway Administration as well as for recognised unions to evolve suitable guide-lines.

37. As per annexure A-3 the Railway Administration (Senior Subordinate Incharge) will maintain casual labour register where all particulars of the casual labour shall be entered and labour card should be made available along with employment particulars and wages pay month to month, number of days, present, absent each month and break in service etc. While discharging the casual labour the Senior Subordinate Incharge will make entry in the casual labour register as also in the casual labour card giving therein the day of discharge. The status of the casual labour (whether casual labour on the open lines project work, scale net or granted, temporary status with days etc.

38. The applicants have filed judgment of O.A.No.1550/92 of the said case in which the applicants were granted temporary status and also asked to re-engage them. On perusal of the said authority I find that the applicants of the said case have worked from 19.6.82 and onwards. The said judgment states that the respondents to re-screen the service of the applicant and if those engaged on open line work more than 120 days and thus engaged on project work had completed

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more than 180 days work grant the temporary status and if any monetary benefits accrues to the applicants on account of the entitlement to the temporary status in accordance with the extent provision of I.R.E. Manual and Instruction and Railway Board after 120 days or 180 days as the case may be for the remaining period of the engagement allow them said benefits. Thus the matter was again left for screening.

39. It is true that in the said judgment, it is mentioned that if any of the applicant is ever to furnish the names or names of his juniors/juniors and establishes the re-engagement of such person/persons the respondents are directed to re-engage him and give him all benefits from the date of engagement of his junior/juniors. Thus again the matter was left to be decided by the respondents, neither it was accepted their temporary status nor it was accepted that juniors have been appointed and they are entitled for appointment. Hence on the basis of the said judgment it cannot be said that any juniors were appointed.

40. Annexure-A6 relates to termination of the services of the casual labours which is not a matter in dispute before me

41. The aforesaid discussion leads me to conclude that Applicant no.1 Harish Chandra, Applicant no.4 Shri Chandra, Applicant no.5 Jiya Lal, Applicant no.6 Bhawani Deen, Applicant no.7 Shri Ram Das, applicant no.9 Lakan who have worked for more than 180 days or more than 180 days on project work, are entitled to get a temporary status and consequential benefits thereof along with their names to be entered in the Labour Casual Register.

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42. Rest of the applicant nos. 2, 3, 8, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 21 and 22 are not entitled to any relief.

43. In the result, the O.A. is partly allowed and it is hereby held that the applicants nos. 1, 4, 5, 6, 7 and 9 are entitled to temporary status with all consequential benefits along with their names in Life Casual Labour Register as per their seniority.

44. The applicants have filed this O.A. without there being any application under rule 4(4)(a) of the Central Administrative Tribunal Procedure Rules, 1987. The applicants who have lost their case, whose case was not similar to the applicant in whose favour O.A. is partly allowed, have been unnecessarily joined against the provisions contained in rule 4(4)(a) of the Central Administrative Tribunal Procedure Rules, 1987. In such circumstance it is ordered that none of the applicants shall be entitled to any costs of the O.A. and parties shall bear their own costs.

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Section 10(1)(c)
Central Administrative
Tribunal

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