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CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
XXXXXX

O.A. No. 256 OF 1988
ExxxxNxx

DATE OF DECISION 11/6/91

Laxman Popat & Anr. Petitioner s

Mr. P.H. Pathak, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents.

Mr. B.R. Kyada, Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M.M. Singh, Administrative Member.

The Hon'ble Mr. R.C. Bhatt, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? No
3. Whether their Lordships wish to see the fair copy of the Judgement? Yes
4. Whether it needs to be circulated to other Benches of the Tribunal? No

(6)

1. Laxman Popat.,

2. Association of Rly & Post
employees, through its
Executive Committee Member
Shri Ahmed Noor Mohmad having
head office at 37, Pankaj
Society, Paldi, Ahmedabad.
(Advocate- Shri P.H. Pathak)APPLICANTS

Versus

1. Union of India,
through
The General Manager (W.R.)
Church Gate, Bombay.

2. Divisional Rly, Manager (W.R.)
Kothi Compound, Rajkot.

3. C. Permanent Way Inspector,
Kothi Compound, Rajkot. RESPONDENTS
(Advocate- Shri B.R. Kyada)

Coram: Hon'ble Mr. M.M. Singh : Administrative Member
Hon'ble Mr. R.C. Bhatt : Judicial Member

O. A. 256/88

11/6/91

JUDGEMENT

Per: Hon'ble Mr. R.C. Bhatt : Judicial Member

1. The applicants have filed this application under
section 19 of the Administrative Tribunal Act, 1985,
seeking the reliefs that impugned screening held in
accordance with letter dated 26-12-87 from P.W.I. Duch
to C.P.W.I. Rajkot be declared as illegal, invalid and

inoperative in law and the impugned action of the Respondents calling juniors to the applicant for screening list in accordance with the letter dated 26-12-87 as "Pick and choose" policy and bad in law and that the respondents be directed to regularise the service of the applicant as per their seniority.

2. The applicant No. 1 is working as casual labourer with the Railway Department at Rajkot, while applicant No. 2 is a union registered under the Trade Union Act 1926. The applicants have alleged in the application that their challenge before this Tribunal is against the order calling the casual labourers who have joined the services in the year 1984-85 for screening and regularisation. It is alleged by the applicants that the right of the applicants whose names are mentioned in Ann. A is openly flouted by the respondents and the respondents have adopted "Pick and choose" policy. It is further alleged that no panel is still declared by the respondents. The main bone of contention of applicants as found in the application is that the casual labourers who have joined the services in the year 1984-85 called for screening test according to letter Ann. A 1, while their seniors whose names are mentioned in Ann. 'A' are ignored from the screening test.

3. It may be noted at this stage that none of the parties have submitted their written arguments though

promised to do so and hence this application is disposed of on the strength of material available on record before us.

4. The applicants have produced at Ann. A, One typed list of 39 persons describing as senior employees of Rajkot Division. The grievance of the applicants is that though the casual labourers whose names are shown in the typed list Ann. A are in service since 1978- 79, the respondents by letter Ann. A 1 dated 26-12-87 sent casual labourers appointed between 1982 to 1985 who ~~have~~ were much junior to the persons shown in list Ann. A, for screening purpose, which action was violative of Art. 14 and 16 of the Constitution of India. The applicants have produced the copy of service card of applicant No. 1. The contentions of the respondents in the reply filed are that (1) Service particulars regarding the persons shown at Ann. A serial No. 1 to 39 are not produced. (2) No service conditions produced not it is shown whether they are from open line or project casual labourers. (3) So far seniority list of project casual labourers is concerned, the said seniority list has already been published as per the orders of Hon'ble Supreme Court. (4) Without producing service cards and without showing serial No. in the said seniority list, the respondents are not in in position to trace out names of persons shown at Ann. A in the petition.

(A)

(5) that the applicants have not complied with the order dated 25-4-88 by furnishing and producing copies of the documents.

5. Now the main hurdle in the way of the applicants is the typed list Ann. A itself. Nowhere in the application in is mentioned as to whether the same is true copy of any original list. The applicants seem to have prepared the list of the casual labourers mentioning the date of their respective appointment in it, but this simple copy is no evidence in eye of law when it is not the true copy of any original document. The question is raised by the respondents in reply and rightly that without giving better service particulars and service condition, how this documents Ann. A can be relied upon. There is absolutely no particular shown in Ann. A except date of appointment and there is no ~~even~~ prima facie evidence to hold that the contents of the same are correct. Thus, the main premises of the applicants that the persons shown in the list Ann. A are seniors to the persons whose names are shown in the letter Ann. A/1 is lacking the foundation ~~in as~~^{as} much as that the documents Ann. A cannot be taken into ~~co~~^{ns}ideration for the purpose of holding that those whose names appear in list Ann. A are seniors to those whose names appear in letter Ann. A 1 dated 26-12-87. No doubt, the respondents ~~were~~ directed to enclose with their reply seniority list on the basis of which persons named in letter A 1 were called for screening, but, when applicants

themselves have not even prima facie proved that they are seniors to the persons named in letter A 1, in our opinion, the applicants' grievance of violation of Articles 14 and 16 of the Constitution of India, ^{as} ~~by~~ respondents can not be accepted. It is not possible to probe into further enquiry in this matter in absence of reliable evidence which applicants have failed to produce.

6. The respondents have contended in the reply that the persons whose names are mentioned in letter Ann. A-1 were working under C.P.W.I. Rajkot, ^{At the time of evidence of} ~~ISSYANCE~~ ^{9t} the said letter, the C.P.W.I. had sent those persons for screening but it could not be said that they have been screened and placed ~~on~~ panel above the applicants. The applicants have mentioned in the application that no panel is still declared by respondents. It is contended by respondents in reply that the applicants have not shown under whom they were working, how many days they have worked, nor any notice of ~~to~~ retrenchment annexed, nor particular date of retrenchment given, and hence the respondents are not in a position to find out the names of those persons in the list of seniority. No rejoinder is filed by ^{the} applicants and no particulars given by them ~~inspite~~ of ¹⁹ these contentions taken by respondents ~~in~~ reply, and, therefore, the applicants should blame themselves for not producing reliable evidence in support of their case. This Tribunal would have certainly gone into the detailed ^{inva}

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investigation of the applicants' grievance, had the applicants produced reliable evidence in support of their case. However, as observed above, the applicants' case suffers from the serious infirmity namely non-production of reliable evidence in support of their case and hence the applicants are not entitled to the relief sought by them.

7. In the result, the application fails and following order is passed.

ORDER

8. The application is dismissed with no orders as to cost. Application is disposed of.

R. C. Bhatt

(R. C. Bhatt)
Judicial Member

M. M. Singh
(M. M. Singh)

Administrative Member