

NO
Ct. Disqualification
Petition for Settlement

CAT/J/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH
NEW X X X E X X X

O.A. No.

285

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1988

~~ExxxNex~~

DATE OF DECISION 13.8.1991

1. Laxmi Chona

Petitioner

2. Radha Jadav

3. Rani Sana

Mr. M. M. Xavier

Advocate for the Petitioner(s)

Versus

Union of India & Ors.

Respondent

Mr. R. M. Vin

Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. M. M. Singh

: Member (A)

The Hon'ble Mr. S. Santhana Krishnan

: Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. Whether it needs to be circulated to other Benches of the Tribunal?

1. Laxmi Chona
2. Radha Jadav
3. Rani Sana

Casual Labourers/Substitutes under
Health Inspector,
BHAVNAGAR PARA.

: APPLICANT

(Advocate: Mr. M. M. Xavier)

VS.

1. The Union of India, through
The General Manager,
Western Railway,
Church gate,
BOMBAY.

2. The Divisional Rly. Manager,
Western Railway,
BHAVNAGAR PARA.

3. The Chief Health Inspector,
Western Railway,
BHAVNAGAR PARA.

: RESPONDENTS

(Advocate : Mr. R. M. Vin)

CORAM : Hon'ble Mr. M. M. Singh

: Member (A)

Hon'ble Mr. S. Santhana Krishnan

: Member (J)

O R A L - O R D E R

O.A. No.285 of 1988

Date : 13.8.1991

Per : Hon'ble Mr. M. M. Singh

: Member (A)

This original application has been filed under Section 19 of the Administrative Tribunals Act, 1985, by three applicants, casual labourers/substitutes under Health Inspector, Bhavnagar Para, who allegedly were retrenched by oral order dated 30.11.1987.

2. The alleged order of retrenchment is said to be violative of Article 14 & 16 of the Constitution of India and of provisions of Section 25(F), 25(G) 25 (H) and 25(N) of the Industrial Disputes Act 1947, and Rule 77 of the

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Industrial Disputes (Central) Rule 1957, and against the scheme introduced by the Railway Board perusant to the decision of the Supreme Court in 1985 (2 S.C.C. 648). It is therefore alleged that the applicants have been discriminated. It is also alleged that persons junior to the applicant have been retained and continued in service and fresh recruitment granted to 198 casual labourers who have been continued in service in preference to the applicant. It is mentioned that several persons whose names are given in the application, in the Mechanical Department are juniors of the applicant. It is also alleged that no ~~decision~~ ^{division - M} wise Seniority List has been prepared and the applicants were orally retrenched from service. The applicants have further alleged that, they have been continuously attending the office of respondents No.2, but no work has been assigned to them and they were orally retrenched with effect from 30.11.1987 on the ground of surplus.

3. The respondents reply is to the effect that the applicants are substitutes and are engaged as and when need arises because of some vacancies to engage substitutes, and if there is no need to engage substitutes, naturally ^{they} ~~are~~ not engaged. The respondents have given account in annexure R-I of the engagement of the three applicants. This annexure shows that the three applicants have been engaged for short duration, on various dates and there is no continuity in their engagement. The respondents also rely on annexure R-II of their reply with regard to preparation of seniority list and grant of temporary status to Project Casual Labourers. As the applicants are not Project Casual Labourers and are Casual Labourers in Medical Department, they cannot be considered for applicability of the scheme which is prepared by the Railway Administration perusant to Judgement of the Supreme Court with regard to Project Casual Labourers.

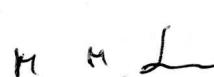
4. We have heard Mr. R.M. Vin learned counsel for the respondents. The applicants and their counsel not present. We have perused the record.

~~With M~~

5. However the nomenclature of the applicants as substitutes by which the applicants have described this in ~~their~~ ^{themselves &} application, implies that they have to work in place of some other employees who ^{for M} have reason of any contingency like illness or such other cause ^{and} is not available to perform the duty. As soon as this contingency come to an end, also comes to end the period of engagement of ^{consisting of M} such substitute labour. The rights to such substitute casual labourer in this scheme faces main engagement to job for short duration, and consequentially, non-engagement when the need for engaging casual labourer comes to an end. No order to reinstate such substitute casual labourer when need to re-engage has come to an end, can be issued, which is the main relief of the applicants. The corresponding relief to the effect that the respondents should reinstate the applicant in service with all consequential benefits can also not be given.

6. In view of the above analysis, the application is liable to be dismissed. We hereby do so. There shall be no orders as to costs.


(S. SANTHANA KRISHNAN)
Member (J)


(M. M. SINGH)
Member (A)