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C.V. Yes
Absorption

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH

O.A. No. 339 OF 1988.
~~RAJAXNOK~~

DATE OF DECISION 7-8-1991.

Ramnayak. D. & Ors. Petitioners

Mr. Y.V. Shah, Advocate for the Petitioner(s)

Versus

Union of India & Ors. Respondents

Mr. N.S. Shevde, Advocate for the Respondent(s)

CORAM :

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

The Hon'ble Mr. S. Santhana Krishnan, 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? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

1. Ramnayan D.
2. Jinaji Hiraji,
3. Titia Kehji
4. Rupla Kalia
5. Pungla Mohan
6. Mansing Modu
7. Kali Makna
8. Bhatu Roopsing
9. Sana Raising
10. Chunia Kalia
11. Dhanaji Sonaji
12. Gana Bhava
13. Rasul Salu
14. Neema Huma
15. Keshav Jithra
16. Ramsing Shakra
17. Mathur Madu
18. Naku Hira
19. Samu Dhanji
20. Rama Tavaiya
21. Daya Soma
22. Mala Tersing
23. Gava Amra
24. Gavsing Kuwra
25. Raman Mangla
26. Amarsingh Pardhi
27. Titia Mehji
28. Fatia Moti
29. Somji Chithra
30. Hakri Situ,
31. Prahladji Becherji
32. Shakraji Becherji
33. Shivaji Gagaji
34. Kali Titia
35. Musha Ratan
36. Shriram Amrita
37. Kanti Madia
38. Shakra Jawa
39. Bachu Shakra
40. Chandrasingh Virsingh
41. Gandaji Sonaji
42. Chuna Nanji
43. Mula Shakra
44. Chhagan Virsingh
45. Kashiram Uderaj
46. Virsingh Rama
47. Deva Madu
48. Janki Dita
49. Prema Parthi
50. Bhalaji Maganji
51. Bhodu Rumal
52. Popat Pratap
53. Kanu Rama
54. Sunia Virsing
55. Omprakash Ramdularsingh

working between Sanand to Viramgam,
under PWI, Western Railway,
Viramgam.

..... Applicants.

(Advocate: Mr. Y.V. Shah)

Versus.

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1. Secretary,
Railway Board,
Rail Bhavan,
New Delhi.
2. Union of India,
through the General Manager,
W.Rly., Churchgate,
Bombay - 20.
3. Divisional Railway Manager,
W.Rly., Pratapnagar,
Baroda.
4. Chief Engineer(C),
W.Rly, 2nd floor,
Station Building,
Ahmedabad - 2.
5. Mr. Pachorie or his
successor in the office,
Executive Engineer(C) I,
Western Railway,
Ahmedabad - 2.
6. Mr.A.C.Arora, or his
successor in the office,
Permanent Way Inspector,
Western Railway, Viramgam,
Dist: Ahmedabad. Respondents.

(Advocate: Mr. N.S.Shevde)

ORAL JUDGMENT

O.A.No. 339 OF 1988

Date: 7-8-1991.

Per: Hon'ble Mr.M.M.Singh, Administrative Member.

This Original Application under section 19 of the Administrative Tribunals Act, 1985, has been filed by 55 applicants casual labourers of the Railways who, according to their own showing in Annexure A-9, p.55, had been recruited on various dates between 12.8.1974 to 19.2.1980. The allegation in the application is that they have completed about 10 years of continuous services as Construction Labourers and have nevertheless remained as daily wagers. They came to know that their juniors have been permanently absorbed after two to three years of service and they have not been absorbed. They filed this application so that it does not become

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time-barred for them when they take the plea with reference to date of absorption of junior, that they had not filed the application in time. That is the implication of the averment made in the application in this regard.

2. The respondents have filed reply which is to the effect that casual labourers having continuous service of four months get temporary status. This has been the case with effect from 1.1.1981 and onwards and the applicants have been granted temporary status in appropriate categories and are being paid scale of pay. It is further averred that the applicants are getting benefits of wages, allowances, regular leave and passes and PTOs like open line labourers except benefit of permanency of service and that applicants who are Project Casual Labourer are not entitled to benefit of promotion, gratuity etc. which is available to permanent employees.

3. Mr. Y.V.Shah, learned counsel for the applicant drew our attention to the part of the respondents' reply in para 5 where the respondents have stated that DRM Baroda called the Open Line Casual Labourers for screening as per their seniority in accordance with the Rules in force and the applicants have not given specific cases wherein their juniors are called for screening and it is not therefore possible to offer any remarks in the absence of relevant particulars. No names of juniors figure in the Original Application. The respondents counsel Mr.N.S.Shevde drew our attention to page 6 of the respondents reply where the respondents have averred that about 300 labourers according to their seniority were called for screening from different units and that in the list of these 300, the applicants figuring at Sr.No.1, 3 and 55 were

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called for screening in accordance with their seniority. Mr.Y.V.Shah learned counsel for the applicants then said that the applicants' rejoinder is to the effect that this part of the averment of the respondents is not true. He drew our attention to para 5 of the rejoinder where figures general denial but not with reference to applicants at Sr.No.1,3 and 55 who according to the respondents' reply, have been called for screening.

4. Mr.Shah learned counsel for the applicant alleges that the respondents have not prepared the seniority list in accordance with the direction in Ram Kumar & Ors. Vs. Union of India & Ors. (AIR 1988 SC 390). Two seniority lists, one of project casual labourers (Engg. Department) and the other open line casual labourers list (Engg. Department) have been shown by Mr. Shevde to us and to learned counsel for the applicant Mr. Shah also. Mr. Shevde also brought to our notice that the names of the applicants where they figured in this seniority list have been ticked for our notice. We found the names ticked. For example at Sr.No. 31 of project casual labour figures Omprakash Singh R. who is Sr.No.55 in the application. In the second Seniority list of open line casual labourers, at Sr.No. 468 figures Raman Mangal, who figures at Sr.No. 25 of the list of applicants. This test check reveals that the seniority list has been prepared in which figure names of some of the applicants, may be not of all of them. The seniority lists have to be scanned by each of the applicants ^{if} _{to} find out his position in it and make representation in case seniority is erroneous or name is omitted. We cannot consider for adjudication in one application claim of seniority of each of the 55 applicants, who, on the applicants own showing, came to be recruited on different dates lying between

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12.8.1974 and 19.2.1980. Any grievance of denial of further carrier benefits on grounds of seniority in combined application can perhaps be considered of persons appointed on or about the same date and therefore likely to figure consecutively in a seniority list. When the gap between the date of recruitment of applicants is as long as about six years, there is no possibility of maintainability of a common application ~~as~~ for adjudication. Such common application cannot be entertained against claim for seniority for reasons of impossibility of adjudication. The application thus filed cannot be considered for any meaningful adjudication. If the applicants have any grievance with regard to seniority or on grounds of alleged junior persons given carrier benefits prior to them, such applicants are at liberty to initiate proper redressal steps impleading as respondents who may have been given careers benefits wrongly ignoring seniority.

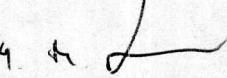
5. At this juncture Mr. Y.V.Shah said that his grievance is not on the basis of seniority lists but on the career benefits given on the basis of seniority lists. Undoubtedly, the relief of absorption and recruitment can flow only in order of seniority. Mr. Shah then submits that the relief as given in judgment dated 26.4.1990 in O.A. 644/87 may be given. We are of the view that when carrier benefits to employees have to be considered on the basis of seniority, grievance of denial of such benefits can be considered only on the plea of comparative seniority. It is not shown to us that the applicants in O.A. 644/87 are of comparative seniority and from

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the class of employees liable to figure in the same seniority list as the applicants herein.

6. In view of the above, the application is liable to be dismissed. We hereby do so. There shall be no orders as to costs. However, while doing so, we make it clear that the respondents Railway Administration will consider the seniority of the applicants for their carrier benefits available to them as per Rules.


(S. Santhana Krishnan)
Judicial Member


(M.M. Singh)
Admn. Member