

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
A H M E D A B A D B E N C H
~~XXXXXXXXXXXXXX~~

O.A. No.
~~XXXXXX~~

506

1989

DATE OF DECISION 26.6.1990

Janak Singh Madho Singh Petitioner

Mr. B.B. Gogia Advocate for the Petitioner(s)

Versus

Union of India & Anr. Respondent

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

CORAM :

The Hon'ble Mr. S.K. Jain Judicial Member

The Hon'ble Mr. M.M. Singh Administrative 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? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*



Janak Singh Madho Singh,
Qr.No. 12/T-5,
Near RPF Office,
Rajkot.
(Advocate - Mr. B.B. Gogia)

.. Applicant

Versus

1. Union of India,
Through: General Manager,
Western Railway, Churchgate,
Bombay.
2. Divisional Railway Manager,
W.Rly., Rajkot Division,
Kothi Compound,
Rajkot.

(Advocate - Mr. B.R. Kyada)

.. Respondents

O.A./506/89


Present : Counsel for the applicant

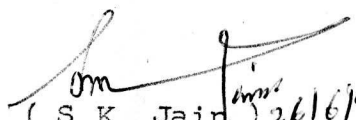
Counsel for the respondents.

Date : 26.6.1990

(Per : Hon'ble Mr. S.K. Jain .. Judicial Member)


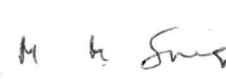
It appears from Annexure A-1 (page 11) that the applicant had left service on his own on 24.4.1980. Learned counsel for the applicant submits that the applicant will make a fresh application for appointment to the respondents and the same be duly considered by the respondents. Learned counsel for the respondents agrees that the application for fresh appointment will be duly considered by the respondents. We order accordingly. No other relief is sought, O.A. stands disposed of accordingly.


(M M Singh)
Administrative Member


(S K Jain) 26/6/90
Judicial Member

C.A. 51/90
in
O.A. 506/89

U

Date	Office Report.	ORDER
29-5-91	<p>Not yet informal</p> <p>Sgt 19/5/91</p>	<p>Present: None for the applicant.</p> <p>Mr.B.R.Kyada, learned counsel for the respondents.</p> <p><u>ORDER</u></p> <p>Learned counsel for the respondents may in the meantime find out the disposal of the applicant's representation dated 7.7.90 and inform before the next date of hearing.</p> <p> (S.Santhana Krishnan) Judicial Member</p> <p> (M.M.Singh) Admn. Member</p> <p>ttc.</p>

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

~~NEW DELHI~~

AHMEDABAD BENCH

C.A./51/90

O.A. No. in 1989

~~EX No.~~ 506 ofDATE OF DECISION 16.7.1991Shri Janak Singh Madho Singh PetitionerShri B.B. Gogia Advocate for the Petitioner(s)

Versus

Union of India & Anr. RespondentShri B.R. Kyada 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? YK
2. To be referred to the Reporter or not? Mo
3. Whether their Lordships wish to see the fair copy of the Judgement? Mo
4. Whether it needs to be circulated to other Benches of the Tribunal? Mo

Shri Janak Singh Madho Singh,
Railway Quarter No. 12/T-5,
Near RPF Office,
Rajkot.

: Applicant

(Advocate - Mr. B.B. Gogia)

Versus

1. Union of India,
Through :
General Manager, W.Rly.,
Churchgate,
Bombay - 400 020.
2. Divisional Railway Manager,
Western Railway,
Rajkot Division,
Kothi Compound,
Rajkot.

: Respondents

(Advocate - Mr. B.R. Kyada)

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

: Admv. Member

Hon'ble Mr. S. Santhana Krishnan: Judicial Member

C.A./51/90

in

O.A./506/89

O R A L - O R D E R

Dated : 16.7.1991

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

This contempt application has been filed alleging contempt made by the respondents of order dt. 26.6.1990 passed by a Bench of this Tribunal in O.A./506/89 in terms that the applicant will make a fresh application for appointment to the respondents and the same be duly considered by the respondents and that the learned counsel for the respondents agreed that the application for fresh appointment will be duly considered by the respondents. The matter was finally disposed of with that order accordingly.

7

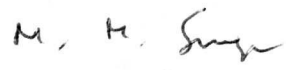
2. It is alleged that the applicant had sent a representation dated 7.7.1990 under acknowledgement due to the Divisional Railway Manager, Western Railway, Kothi Compound, Rajkot and he has annexed a xerox copy of the acknowledgement due. On the basis of this material document, it is alleged that the respondents have committed contempt of the order.

3. The applicant having produced evidence of the representation dated 7.7.1990 having been sent to the Divisional Railway Manager, Western Railway, Kothi Compound, Rajkot under acknowledgement due, ^{there is} this basis ^{for} the inference that the order dt. 26.6.1990 of this Bench has not been carried out by the Divisional Railway Manager, Western Railway, Kothi Compound, Rajkot. However, the Bench order dated 26.6.1990 does not specify any time schedule within which respondents were required to dispose of a representation when made. ^{with} No stipulation in the order with regard to the time ^{of disposal} from the date of the representation made. ^{we} We are of the view that the allegation will not attract the provision of law of contempt.

4. We, however, feel that in the interest of justice, the respondents should be put to consideration of the representation dated 7.7.1990. Copy of this representation may be furnished by learned counsel Mr. Gogia to learned counsel Mr. Kyada for the respondents and Mr. Kyada assures that he will have the matter properly decided.

5. The C.A./51/90 finally disposed of by our above order.


(S Santhana Krishnan)
Judicial Member


(M M Singh)
Admv. Member

સિદ્ધ 4341/85
19/5

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

ORIGINAL APPLICATION NO: 506 /89

(9)

Shri Janak Singh, Madho Singh
Qr.No.12/T-5,
Near RPF Office,
RAJKOT

:: APPLICANT

Versus

- 1) Union of India
Through: General Manager,
Western Railway,
BOMBAY
- 2) Divisional Railway Manager,
Rajkot

:: RESPONDENTS

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Sr. No.	Descriptions of documents relied upon	Page No.
01.	Application	01-07
02.	A/1 Copy of service card No.072744	08-12
03.	A/2 Copy of XMR Message No.EC/891/18 dt.16.4.86	13
04.	A/3 Copy of Railway Board's letter No.E(NG)II/ 84/CL/41 dated 11.9.1986	14-17

Rajkot/Ahmedabad

Date: 19/9/89

વજાઈ નિયમ અનુસાર
(Applicant)

For use in Tribunal's Office

Date of filing

or

Date of receipt by post

Registration No.

Signature
for Registrar

1

(10)

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD

ORIGINAL APPLICATION N O: 506 /89

Shri Janak Singh, Madho Singh
Hindu, Adult, aged about 27 years
Occupation: Rly.Gr.No.12/T-5,
Near RPF Office,
RAJKOT

The applicant was employed as a
Khallasi under Chief Singnal
Inspector, Western Railway,
RAJKOT

:: APPLICANT

Versus

- 1) Union of India
Owning & Representing
Western Railway,
Through:
General Manager,
Western Railway,
Churchgate,
BOMBAY
- 2) Divisional Railway Manager,
Western Railway,
Rajkot Division,
Kothi Compound,
RAJKOT

:: RESPONDENTS

DETAILS OF APPLICATION

1. Particulars of the order against which the application is made.

- | | | |
|----------------------|---|---|
| i) Order No. | : | The present petition is |
| ii) Date | : | against the non observance |
| iii) Passed by | : | of the provisions contained in Section 25(H) of |
| iv) Subject in brief | : | the Industrial Disputes Act and Rules 87 and 88 |
| | : | of the Industrial Disputes (Central) Rules 1957 |

2. Jurisdiction of the Tribunal

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3. Limitation

The applicant further declares that the application is within the limitation period prescribed in section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case

i) The applicant begs to state that he was engaged as a Khallasi on 2.1.1980 and worked upto 23.4.1980 under District Signal & Telecommunication Engineer (Construction), Western Railway, Rajkot. Thereafter, he was again called and re-engaged on 27.2.1985 and he continued as such upto 16.9.1985 as Khallasi under Chief Signal Inspector ~~EX~~ Rajkot Division under Divisional Signal & Telecommunication Engineer, Rajkot Division. Both the departments are related to the Signal & Telecommunication working on Western Railway.

In the later spell he worked for 147 days continuously, thus ^{not} has acquired temporary status. ^{not} and thereafter his services were terminated due to

non availability of further ELA. This has been recorded on page 8 of the service card given to him. Copy of

A/1

the service card is annexed herewith as Annexure A/1.

^{sub} such termination w.e.f 16-9-85 was without service of one month notice or pay in lieu, such termination is null & void.

ii) The applicant submits according to Section 25(H) of the Industrial Disputes Act and rules 87 and 88 of the Industrial Disputes(Central)Rules 1957 before the services of a workman is retrenched, a seniority list should be exhibited at least 7 days before the retrenchment, his name should be registered in a register and as and when work is available the retrenched employees should be called and the ones report should be re-engaged in preference to others. When the applicant

was retrenched all these formalities were to have been observed. However, admittedly, none of these formalities was observed. For the convenience of the honourable Tribunal, section 25 (H) of the I.D. Act and rules 77 and 78 of the Industrial Disputes (Central) Rules 1957 is reproduced below:

"25-H. Re-employment of retrenched workmen - Where any workmen are retrenched, and the employer proposes to take into his employ any persons, he shall, in such manner as may be prescribed, give an opportunity to the retrenched workmen who are citizens of India to offer themselves for re-employment, and such retrenched workmen (a) who offer themselves for re-employment shall have preference over other persons."

"The Industrial Disputes (Central) Rules, 1957

77. Maintenance of seniority list of workmen - The employer shall prepare a list of all workmen in the particular category from which retrenchment is contemplated arranged according to the seniority of their service in that category and cause a copy thereof to be pasted on a notice board in a conspicuous place in the premises of the industrial establishment at least seven days before the actual date of retrenchment.

78. Re-employment of retrenched workmen -(1) At least ten days before the date on which vacancies are to be filled, the employer shall arrange for the display on a notice board in a conspicuous place of the industrial establishment details of those vacancies and shall also give intimation of those vacancies by registered post to every one of all the retrenched workmen eligible to be considered therefor, to the address given by him at the time of retrenchment or at any time thereafter."

iii) The applicant submits that scores of workmen who were engaged after the initial engagement of the applicant are either continued in service or such people were recalled and re-employed. As per the rules mentioned in para (ii) above the applicant had prior claim for re-employment. However, he was not recalled or re-employed.

iv) The applicant also draws the attention of the honourable Tribunal to an XXR message No.EC/891/13 dt. 14.6.1986 addressed to various subordinates, the instructions issued under this XXR is as given below.

"All Substitutes who were engaged after 18.12.80 but before 14.7.91 will now be considered as old faces. They may therefore be engaged as per turn against vacancies. No substitutes engaged after 14.7.1981 should be engaged under any circumstances."

Copy of the above XMR message No.EC/891/18 dated 16.4.'86 is annexed herewith as Annexure A/2. The applicant submits in terms of the above XMR message he was treated as an old face since he was initially engaged before the crucial date of 14.7.1981 and that was why he was re-engaged during the second spell.

v) Further according to the judgement of the Hon'ble Supreme Court of India in Inderpal Yadav V/s Union of India reported in 1985(2) SLJ Page 58 (Supreme Court) Railway Board has issued a circular bearing No.E(NG)II/84/CL/41 dated 11.9.1986 on the basis of the above judgement provides that there will be combined seniority list of casual labourers of Open Line and Construction on the basis of the Division. Accordingly the respondents are expected to have prepared a seniority list of casual labourers of construction & open line of Rajkot Division. Copy of Railway Board's letter dated

11.9.1986 is annexed herewith as Annexure A/3. The applicant also submits that there are number of new faces appointed in the Construction as well as in Open Line after 16.9.1985 without recalling the applicant and giving him preference for the post.

5. Grounds for relief with legal provisions

- i) Violation of the provisions contained in section 25(H) of the Industrial Disputes Act read with Rules 77 & 78 of the Industrial Disputes(Central) Rules 1957.

- ii) Discrimination in the matter of public employment in violation of articles 14 and 16 of the Constitution of India.
- iii) The applicant is entitled to be re-engaged/re-appointed in class IV service of the respondents in preference to those who were initially recruited after the appointment of the applicant both in Construction & ~~and~~ in Open Line. This has not been done in contravention of the rules framed by the Railway Board as directed by the Supreme Court of India, as can be seen from Annexure A/3.
- iv) Even as per Annexure A/2 the applicant is entitled for re-appointment since he is to be treated as an old face.

6. Details of remedies exhausted

The applicant submits that he has no remedies available as per the statutory rules of the respondent department.

7. Matters not previously filed or pending with any other court.

The applicant further declares that he had not previously filed any application, writ petition or suit regarding the matter in respect of which this application has been made before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought

- A) The respondents may please be directed to re-appoint the applicant in accordance with section

25(H) of the Industrial Disputes Act read with rules 87 and 88 of the Industrial Disputes (Central) Rules 1957 on the first available vacancy and/or in accordance with the position in the seniority list with all the consequential benefits from the date he was due for such re-appointment.

- B) The respondents may please be directed to declare to the applicant his seniority position ^{prepared} on the seniority list ^{as per} rules 77 of the Industrial Disputes (Central) Rules 1957 if prepared and in case it is not prepared the respondents may please be directed to prepare the same and declare the same to the applicant about his position in the seniority list, including the names of those who were engaged after his discontinuance from service.

9. Interim order, if any preyed for :

NIL

10. In the event of application being sent by registered post, it may be stated whether the applicant desired to have oral hearing at the admission stage and if so, he shall attach a self-addressed Post Card or Inland Letter, at which intimation regarding the date of hearing could be sent to him.

NOT APPLICABLE.

11. Particulars of Postal Order filed in respect of Application fee.

1. Number of Indian Postal Order(s) : *DD 227175*
2. Name of the issuing Post Office : *Mohr Bazar - Rst*
3. Date of issue of Postal Order(s) : *7-9-89*
4. Post Office at which payable : *A' Bul*

12. List of enclosures

- 1) Postal Order as per the details given in para 11.
- 2) Vakalatnama
- 3) Copies of annexures from Annexure A/1 to Annexure A/3.

VERIFICATION

I, Janaksingh, son of Shri Madhosingh, aged about 27 years working as : At present unemployed resident of Rajkot do hereby verify that the contents of paras 1 to 3 and 6 to 12 are true to my personal knowledge and paras 4 to 5 believed to be true on legal advice and that I have not suppressed any material fact.

Rajkot/Ahmedabad

Date: 19/9/88

જાનકસિંહ માધોસિંહ યોદાજી
(APPLICANT)

Through:

Shri B.B. Gogia,
Advocate,
RAJKOT

Filed by Mr. B.B. Gogia
Learned Advocate for Petitioners
with second set & copies copy served/not served to
other side

DI. 19/9/88

By Registrar C.A.T. J.
A'bad Bench

Annex-A-1

14th Nov 1941

ON 115 G/ETK
G 116 B/PI

ticket

No. 172744

पश्चिम रेलवे
WESTERN RAILWAY

नमिचित्त भण्डार का
सेवा-पत्रिका

RECORD OF SERVICE
AS CASUAL LABOUR

W.P. 605/1941. E.D. 25/10/41

~~8~~

~~8~~

17

6. रोजगार के समर्थन में किसी दूसरे रूप में प्रस्तुत की गई साक्ष्य पर ध्यान नहीं दिया जाएगा।

Any other form of evidence in support of his employment will not be taken cognisance of.

7. कार्डधारी को इस कार्ड का किसी भी प्रकार से दुरुपयोग करने पर सभी रेल सेवाओं के लिए अयोग्य माना जा सकता है।

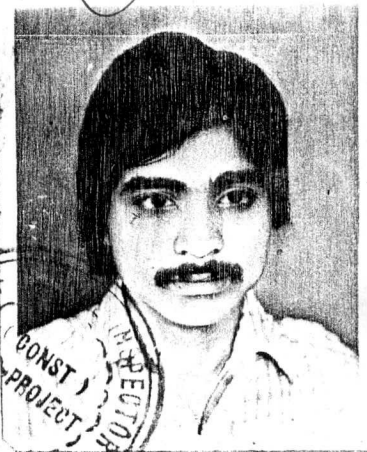
Any misuse of this card shall render its owner liable for being disqualified from railway service of all kinds.

पहली नियुक्ति के स

Particulars to be fill

फोटोग्राफ
(मातहत द्वारा साक्षात्कृत)

Photograph
(Attested by the subordinate)



पूरा नाम
Name in full

SHRI - RANAKSINGH

पिता का नाम
Father's name

SHRI - MADHOSINGH

अनुसूचित जाति / अनुसूचित आदिम जाति अथवा नहीं
Scheduled Caste / Scheduled Tribe or not

इंचार्ज मातहत के हस्ताक्षर और पदनाम
Signature & Designation of Subordinate Incharge

पहली नियुक्ति के समय भरा जाने वाला व्यौरा
व्यक्ति का विवरण

Personal Details to be filled in on First Appointment

1. पूरा नाम
(बड़े अक्षरों में) SHRI - JANAK SINGH
Name in full
(In Block letters)
2. पिता का नाम SHRI - MADHOSINGH
Father's name
3. जन्म तिथि 07-1-1962
(Seventh January 1962)
Date of Birth Nineteen Sixty two 28 per
School Certificate
4. आरम्भिक नैमित्तिक नौकरी के समय आयु 19 yrs
Age at initial casual employment
5. शिक्षा योग्यता 7th Pass
Educational Qualification
6. पहचान चिह्न
Personal marks of Identification
 (i) one black mole on under lip
 (ii) left side chest.

7. आरम्भिक नौकरी के समय कार्य का स्वरूप Khallas
Nature of Job on initial employment,

8. स्थायी पता Rtg - Rm - 12/T-F
Permanent address Near RPF-Office

डाक घर RAJKOT
Post Office

थाना RAJKOT
Police Station

तहसील RAJKOT
Tehsil

जिला और राज्य RAJKOT - GUJARAT
District & State

~~II~~

- भारत सरकार
प्रधान मंत्री

प्रारम्भिक नौकरी की तारीख 02-1-80
Date of initial employment

UT-2 Shri Tanak Singh M.

नैमित्तिक मजदूर के हस्ताक्षर
अथवा बांये अंगूठे का निशान
Signature or L. T. I.
of the Casual Labour.

नौकरी की अवधि Period of employment		कार्य Nature of assignment	पर्यवेक्षक के हस्ताक्षर और पदनाम, तारीख सहित Sig. & Desig. of Supervisor with date
कब से From	कब तक To		
२-१-८०	२३-४-८०	Khalam	
	= ११२½ day S		
		अनुमति प्राप्त है। Twelve of March 80	
		अनुमति प्राप्त है 24-4-80, left from his own accord.	
		[Signature]	
		[Signature]	
		[Signature]	

~~72~~

14-00000

नौकरा की अवधि Period of employment	कार्य Nature of assignment	पर्यवेक्षक के हस्ताक्षर और पदनाम, तारीख सहित Sig. & Desig. of Supervisor with date
कब से From	कब तक To	
<p>12/85 16/9/85 1 Chalosi</p> <p>147 days.</p> <p>One Hundred forty seven days And from 17/9/85 there is no provision of further E.A.</p>		<p><i>[Signature]</i></p> <p>सुख निराका</p> <p>ध. रे. राजकोट.</p> <p>Chief Signal Inspector</p> <p>M. Div. RAJAKOT</p>

आरम्भिक नौकरी की तारीख.....
Date of initial employment.....

नौकरी की अवधि Period of employment		कार्य Nature of assignment	पर्यवेक्षक के हस्ताक्षर और पदनाम, तारीख सहित Sig. & Desig. of Supervisor with date
कब से From	कब तक To		

True Copy

(Signature)

Advocate

~~Annex-A-3~~ Casual Labour
~~Annex-A-2~~

13

WESTERN RAILWAY
SERVICE MESSAGE

Code : XAR

From : DRM (E) RJT

To : All SMs, TIs, CMIs ... RJT Division

No. AC/891/18

Date : 16-4-1986.

(22)

All substitutes/casual labours engaged prior to 14-7-81 may be continued as old faces. XXX Cut off date will be 14-7-81 and not 18-12-80 XA

[Signature]
for DRM (E) RJT

Confirmed by dak.

All Substitutes who were engaged after 18-12-80 but before 14-7-81 will now be considered as Old faces. They may therefore be engaged as per turn against vacancies. No substitutes engaged after 14-7-81 should be engaged under any circumstances.

[Signature]
for WPO/RJT.

Copy to : DCS/ACS/AOS - RJT
ARS MSH/ARO HXP
Divl. Secretary WRSU/ARIS - RJT.

pkv/16/4/86.

True Copy
[Signature]
Advocate

True Copy
[Signature]
Advocate

Annex-A-3

R.R.E. No. 167/86

Government of India
Ministry of Transport
Department of Railways (Railway Board).

No.E(NG) II/84/CL/41

New Delhi, dated: 11.9.86.

The General Managers,
All Indian Railways
including production units,

The General Manager,
Metro Railway, Calcutta.

The Chief Administrative Officers,
MTP, Bombay, New Delhi, Madras.

The General Manager,
Wheel and Axle Plant,
Bangalore.

R.R.E. No.167/86

The Director General R.D.S.O.,
Lucknow.

The Chief Engineer,
Railway Electrification
Allahabad.

The General Manager(Const.),
Southern Railway, Bangalore.

The General Manager(Const.),
N.F. Railway, Gauhati.

Sub:-Project casual labour-terms of employment of .
OoOoO

Reference Ministry of Railways now Department of Railways letters of even number dated 1.6.84 and 25.6.84 on the above subject.

The scheme outlined in para 5.1 of the Ministry of Railways letter of even number dated 1.6.84 read with the letter dated 25.6.84 for treating project casual labour as temporary, was placed before the Honourable Supreme Court in Writ Petitions No.147, 320-69, 454, 4335-4434/83 etc. Inderpal Yadav & Ors. etc. Versus Union of India and Ors. etc. The Supreme Court has approved the scheme subject to modifications indicated in the judgment dated 18.4.85, copy of which is enclosed.

3. Keeping in view the direction given by the Supreme Court in the said judgment and in their orders dated 11.8.86 (copy enclosed) para 5.1 of the aforesaid letter of 1.6.84 should be substituted by the following, the other provisions of the same remaining unaltered:

"5.1 As a result of such deliberations, the Ministry of Railways have now decided in principle that casual labour employed on project (also known as "Project casual labour") may be treated as temporary (temporary status) on completion of 360 days of continuous employment. The Ministry have decided further as under:

(a) These orders will cover:

P...2...

- (i) Casual labour on projects who were in service as on 1.1.1981 and
- (ii) Casual labour on projects, who though not in service on 1.1.81, had been in service on Railways earlier and had already completed the above prescribed period (360 days) of continuous employment or have since completed or will complete the said prescribed period of continuous employment on re-engagement after 1.1.1981.

(3) The decision should be implemented in a phased manner according to the schedule given below:-

Length of service (i.e. continuous employment).	Date from which may be treated as temporary (temporary status)
i) Those who have completed five years of service on 1.1.1981	1.1.1981.
ii) Those who have completed three years but less than five years of service as on 1.1.1981	1.1.1982.
iii) Those who have completed 360 days but less than three years of service as on 1.1.1981.	1.1.1983.
iv) Those who completed 360 days after 1.1.1981	1.1.1984 or the date on which 360 days are completed whichever is later.

4. Accordingly in paras 1 and 2 of the Ministry of Railways letter dated 25.6.84, the date "1.1.84" may be read as "1.1.81". The dates occurring in hypothetical illustrations given in para-3 thereof would stand modified correspondingly.

5.1. As directed by the Supreme Court for implementation of the above scheme, each zonal railway should prepare a list of project casual labour with references to each division of each Railway on the basis of length of service. The men with longest service shall have priority over those who have joined later on. In other words, the principle of last come first go (or to reverse it, first come last go) as enunciated in Section 25 G of the Industrial Disputes Act, 1947 should be followed.

5.2 The following instructions are given in this regard for guidance of the Zonal Railways.

5.2.1. On each Zonal Railway, the list of project casual labour will be prepared for each Division, as under:-

- i) Project casual labour employed on works of each of the "departments like Civil Engineering, Signal and Telecommunication, Electrical etc. within the geographical boundaries of a division (irrespective of whether the works are executed by a Division or by the Construction Organisation or by the Chief Project Manager/Railway Electrification reporting to the General Manager of a Zonal Railway) will form one unit (separately for each department) for which one seniority list will be prepared for each department. In this manner, for each of the departments on each division, there will be none separate list of project casual labour employed on works executed within that Division.
- ii) Within each Department, the seniority list will be prepared according to categories, as under:-
 - (a) All unskilled casual labour will be treated as one category.
 - (b) Semi skilled casual labour, will be treated trade-wise.
 - (c) Skilled casual labour will be treated trade-wise.

111) In cases where the execution of a project spreads over more than one division, the guiding principle will be that all the project casual labour will be assigned to the Division in which the station where they were initially engaged is located. This will be covered by the directions of the Hon'ble Supreme Court that where the implementation of its direction involves some adjustment, the same must be done.

5.2.2. It is hereby clarified that extra-zonal Railway organisations like Metro Railway would continue to maintain the seniority lists of project casual labour as before, without taking a division of a Zonal Railway as a reference point. In doing so, they should comply with, among other things, the relevant provisions of the Industrial Disputes Act, 1947 and the rules made thereunder.

5.2.3. The seniority list of project casual labour engaged by project organisations will be recast by the Zonal/Construction Railway administrations in the aforesaid manner as on the 1st April, 1985 to cover all project casual labour who have been in employment at any time from 1.1.1981, onwards. The lists so prepared will be used for any subsequent engagement/re-engagement/discharge of project casual labour. Any such discharge, where so warranted, due to reduction or completion of work or for other administrative reasons will be effected after complying with the relevant provisions of the Industrial Disputes Act, 1947, the Industrial Disputes (Central) Rules, 195 and the orders applicable to project casual labour.

6. Steps may be taken immediately for implementation of the orders contained in the Deptt. of Railway's letters of 1.6.84 and 25.6.84 aforesaid as modified abot on the basis of the judgment of the Supreme Court. Due verification of claims in each individual case will, no doubt, be done by the respective Railway Adminis.

7.1 The process of preparation of seniority list and action as directed above, must be completed within two months from 11th August, 1986 as per orders dated 11.8.86 of the Hon'ble Supreme Court. To ensure full implementation of the orders of the Supreme Court, a committee comprising a D.P.O., a DEN, a DEN (Const) on each division will meet and review the implements every week. Similar Committee should function for each of the other Departments engaging project casual labour. Similarly in the Headquarters of each Zonal Railway, a committee comprising the CPO, the C.E., C.E. (Const) CSTE and CEE should review the implementation of these orders each fortnight till the court's decision is implemented. The Personnel Officer on these committees will act as a coordinating officer of the respective committees for the purpose of monitoring the progress of implementation. A detailed report in this regard should be sent to the Board in phases, the first by 30th September, 1986 and the second by 15th October, 1986.

7.2 The Department of Railways also desire that in every Departt. engaging project casual labour in each division of each Railway, an officer, not lower in rank than Senior scale must be nominated who will be responsible for maintaining the combined seniority list of project casual labour of his Department and for co-ordinating with other officers of that department so as to ensure proper operation of the list in the manner detailed in para 5.2.3 supra in terms of these orders. This list must be reviewed by the said officer at least once a year before 30th September of every year. The officer so nominated should be one suitable to handle a taks of this type.

8. This issues with the concurrence of the Finance Directorate of the Department of Railways.

9. Please acknowledge receipt.

Sd/-
(M. Kujur)
Deputy Director Establishment
(N), Railway Board.

Item No.18

Court No.1

Section- X

SUPREME COURT OF INDIA
RECORD OF PROCEEDINGS.

Civil Miscellaneous Petition Nos. 40897/85 (In WP Nos.147 & 320-69 of 1983).
WITH SLP(Cvl.) Nos. 4777-80/82 A/N.

1) Inder Pal Yadav & Ors.
2) Ramesh Prasad etc. etc.

PETITIONERS/APPELLANTS.

VERSUS

Union of India and Ors.
1) (For Clarification)
2) (With office report)

RESPONDENTS.

Date: 11.8.1986 : This matter was called on for hearing today.

GRAM: Hon'ble Chief Justice
Hon'ble Mr. Justice. V. Balakrishna Eradi.
Hon'ble Mr. Justice Ranganath Misra.

For the petitioners: Mr. Anis Suhrawardy, C.P. Pandey Advocate.
Mr. M.P.Jha, Advocate.
Mr. L.N. Sinha, Sr.Advocate.

For the Respondents: Mr. T.S.K. Iyer, Sr. Ms, H. Khatun,
C.V. Rao, Advocate,
Mr. V.C. Mahajan, Sr. Adv.
Mr. D. Bhandari, Advocate

UPON hearing counsel the court made the following

O R D E R

We are of the view that the Scheme prepared by the Railways setting out the list of project casual labour with reference to each department in each Division and also in regard to each category, namely, skilled, semi-skilled and unskilled is in compliance with the judgment and order dated 18.4.86 given by this Court and that absorption of these with the longest service be made in accordance with such list. Mr. Krishnamurti Iyer states that this process will be completed within two months from today. The matter is disposed of in these terms.

sd/-
(J.S.Bahri)
COURT MASTER.

True Copy

Advocate

True Copy

Advocate

BEFORE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD

CONTEMPT APPLICATION NO: 51 / 90

IN

ORIGINAL APPLICATION NO: 506 OF 1989

Shri Janak Singh Madho Singh,
Railway Quarter No.12/T-5,
Near RPF Office,
RAJKOT

:: APPLICANT

Versus

E. Sreenivasan General manager

- 1) Union of India,
Owning & Representing
Western Railway,
Through:
General Manager,
Western Railway,
Churchgate,
BOMBAY - 400 020

H. C. Bindlish D.M.

- 2) Divisional Railway Manager,
Western Railway,
Rajkot Division,
Kothi Compound,
RAJKOT

:: RESPONDENTS

The applicant respectfully begs to submit as
under:-

- 2) The applicant was originally engaged as a
Khallasi on 2.1.1980 and continued as such under the
DSTE(C) Western Railway, Rajkot. Again he was re-
engaged on 27.2.1985 as a Khallasi and worked upto
16.9.1985 for 147 days under Chief Signal Inspector,
Western Railway, Rajkot (Open Line). By virtue of
his continuous working for a period of more than 120
days he had acquired the temporary status by operation

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of the rules.

3D The applicant had filed an Original Application bearing No.506 of 1989 before this honourable Tribunal praying for directives to the respondents to re-appoint~~as~~ the applicant in accordance with section 25(H) of the Industrial Disputes Act read with rule 87 and 88 of the Industrial Disputes(Central)Rules 1957 on the first available vacancy and/or in accordance with the position in the seniority list with all the consequential benefits from the date he was due for such re-appointment.

4) The applicant also submits that when the matter was heard by this honourable Tribunal that learned counsel for the Respondents had undertaken that the application that may be made by the applicant for fresh appointment will be duly considered by the respondents. With this observation the matter was disposed of by this honourable Tribunal vide orders dated 26.6.1990.

5) Accordingly the applicant vide his application dated ~~XX~~ 7.7.1990 approached the Respondent No.2 for his re-engagement. This was received in the office of the Respondent No.2 on 24th July 1990. The application dated 7.7.1990 together with the postal

acknowledgement is annexed herewith as Annexure A/1

Cumulatively. The oral order of the honourable Tribunal



A/1

A/2is annexed herewith as Annexure A/2.

6) The applicant submits that even though a period of three months has passed after the Respondent No.2 received the application of the applicant, no action has so far been taken to offer appointment to the applicant in disregard to the orders/directives given by this honourable Tribunal. The applicant therefore prays that necessary punitive action may be taken against the Respondents.

7) For this act of kindness and justice this applicant shall ever pray for.

Rajkot/Ahmedabad

Date: 23/11/90
5/12

જાનક સિંહ માધો સિંહ
(APPLICANT)

AFFIDAVIT

M. M. Pandya
(Advocate)

I, Janak Singh Madho Singh, son of Shri Madho Singh, Hindu, Adult, Aged about 28 years, Occupation: Unemployed, resident of Rajkot, do hereby declare on solemn affirmation that whatever is stated from para 1 to 7 above are true and correct to the best of my knowledge and belief and I have not suppressed any material fact.

I state the above on oath.

Rajkot

Date: 23/10/90
4 explained in Gujarati
Identified by
N.M. Pandya
(Advocate)

જાનક સિંહ માધો સિંહ
(DEPONENT)



Solemnly affirmed before me

Shri. Janakshin Pradhosin
who is identified by Advocate Chohan
Shri Miss Neerajin M. Pandya,
who is known to me.

Raikot. Dated:- 23-10-90



Georgi
He says that he is
affiliated to the work.

Filed by Mr. B. B. Garg
Learned Advocate for Petitioners
with second set & 2 spare
copies copy served/not served to
other side

Dt. 5/2/96 Dy. Registrar C.A.T. (U)
A. Bad Bench

A/1

Rajkot
7.7.1990

~~1/1~~
30

From

Janak Singh Madho Singh,
Railway Quarter No.12/T-5,
Near RPF Office,
RAJKOT

To

The Divisional Railway Manager,
Western Railway,
Kothi Compound,
RAJKOT

Respected Sir,

Sub: Reinstatement - requested for

Ref: Judgement delivered by the hon'ble CAT
Ahmedabad in OA No.506/89 delivered on
26.9.1990

The honourable CAT Ahmedabad vide judgement delivered on 26.6.1990 directed me to represent my case before your honour within 15 days from the date of judgement. I therefore represent my case as under with a request to kindly look into the matter and offer me re-engagement from the date due.

I was initially engaged as a Khallasi on 2.1.1989 and worked upto 23.4.1980 under DSTE(C) W.Rly. Rajkot. After my discontinuation from 23.4.1980 I was offered engagement from ~~23.4.1980~~ 27.2.1985 under Chief Signal Inspector, Western Railway, Rajkot (Open Line) and I continued under the services of CSI RJT upto 16.9.1985 as a Khallasi. In the later period, I had continuously worked for 147 days. This means I had acquired temporary status by operation of the rules, i.e. on completion of 120 days continuous service.

I beg to submit that before discontinuing the services of the undersigned list of all workmen in the category of Khallasi from which retrenchment is contemplated arranged according to the seniority of their services and a copy of the same was not pasted on the notice board in a conspicuous place in the premises of the industrial establishment, i.e. CSI's office, at least seven days before the actual date of retrenchment as required under rule No.77 of the Industrial Disputes (Central) Rules 1957 and hence my retrenchment/discontinuation ~~is~~ was in violation of the same statutory rule.

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I may also bring to your kind notice that the persons engaged after my initial engagement in the railways continued while retrenching my services by the CSI RJT. Hence this retrenchment/discontinuation was in violation of provisions contained in section 25-G of the Industrial Disputes Act.

Section 25-N(c) stipulates that prior permission of the appropriate Government or such authority as may be specified by that Government by notification in the Official Gazette has been obtained on an application made in this behalf before retrenching the workmen. However, in violation of this, no such permission has been obtained while ~~discontinuing~~ discontinuing/retrenching my services.

Several people junior to me have been re-engaged by-passing my claim in violation of the provisions contained in section 25-H of the I.D.Act.

According to the XJR message issued by the DRM(E) RJT, vide No.EC/891/18 dated 14.6.1986 addressed to various subordinates, all substitutes/casual labourers who were engaged after 18.12.1980 but before 17.4.1981 will be considered as old faces. The senior subordinates were instructed to engage the old faces as per turn against vacancies. It was also stated that no substitutes engaged after 14.7.1981 should be engaged under any circumstances. Since I was originally engaged on 2.1.1980 I should have been treated as old face and the benefits/privileges available to the old faces including re-engagement etc. should have been extended to me, in violation of railway's own rules.

I may also point out that according to ~~2302~~ Rule No.2302 services of a temporary railway servant shall be liable to termination on 14 days' notice on either side. Since I have completed more than 120 days service continuously on the ~~post~~ post, by operation of rules I had acquired temporary status and hence discontinuing/retrenching my services without notice of 14 days is in violation of the said rule No.2302 of the IREM.

प्राप्ति स्विकृति (रसीद)

पहोँच

ACKNOWLEDGEMENT

- * एक रजिस्ट्री पत्र / पोस्टकार्ड / पकेट / पार्सल प्राप्त हुआ
- * एक रजिस्टर्ड करेख पत्र / पोस्टकार्ड / पार्सल भण्डु / भण्डो।

क्रमांक
नं. ३४
No.

- * Received a Registered Letter / Post Card / Packet / Parcel

पाने वालेका नाम To, The Divisional Railway Manager,

प्राप्तकर्ता नाम Western Railway, Kothi Compound,

Addressed to (Name)

† बीमेका मुल्य (रुपियेमे) † उत्तरावेख बीमे
† Insured For Rupees इस्थान

वितरणकी तारीख / वितरस्थानी तारीख / Date of Delivery

24.11.1998

- * अनावश्यक को काट दिया जाए
- * जरूरी न होय ते आमत छेकी नांथे।
- * Score Out The Matter Not Required
- केवल बीमा वस्तुओं के लिए/मात्र बीमे उत्तरावेख वस्तुओं माटे
- † For Insured Articles Only

पाने वाले के हस्ताक्षर
प्राप्तकर्ता की सही
Signature of Addressee

भेजने वाले का पता प्रेषक डाकघर की
 भोक्दनाननुं सरनामु नाम मेहर
 Sender's address भोक्दनार ओक्षिनी
 नाम छाप

**Name Stamp of
Office of Posting**

भारतीय डाक विभाग
भारतीय टपाल विभाग
DEPARTMENT OF POSTS, INDIA

ਤਾਰੀਖ ਮੋਹਰ
ਤਾਰੀਖ ਸਿੱਖੀ




Date-Stamp

Janak Singh Madho Singh,
Bhagwatipara, Near Dharamnagar,
Near the House of Ioria.

"Randa Krupa" RAJKOT.

ପିନ୍ / Pin



Dimpnal Rjt. SD/Ptg/PO-36 89/90 30.000 Pads. 9-89

True Copy

① Vasam

Advocate

A/Z

CAT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH
~~XXXXXXXXXXXX~~

34

O.A. No.
~~XXXXXX~~

506

1989

DATE OF DECISION 26.6.1990

Janak Singh Madho Singh

Petitioner

Mr. B.P. Gogia

Advocate for the Petitioner

Versus

Union of India & Ors.

Respondent

Mr. B.P. Kyada

Advocate for the Respondent



CORAM

The Hon'ble Mr. S.K. Jain

..

..

Judicial Member

The Hon'ble Mr. L.L. Singh

..

..

Administrative Member

Janak Singh Madho Singh,
Qr.No. 12/T-5,
Near RPF Office,
Rajkot.
(Advocate - Mr. B.B. Gogia)

.. Applicant

Versus

1. Union of India,
Through: General Manager,
Western Railway, Churchgate,
Bombay.
2. Divisional Railway Manager,
W.Rly., Rajkot Division,
Kothi Compound,
Rajkot.
(Advocate - Mr. B.R. Kyada)

.. Respondents

C.A./506/89

Present : Counsel for the applicant

Counsel for the respondents.

Date : 26.6.1990



(Per : Hon'ble Mr. S.K. Jain .. Judicial Member)

It appears from Annexure A-1 (page 11) that the applicant had left service on his own on 24.4.1980. Learned counsel for the applicant submits that the applicant will make a fresh application for appointment to the respondents and the same be duly considered by the respondents. Learned counsel for the respondents agrees that the application for fresh appointment will be duly considered by the respondents. We order accordingly. No other relief is sought, C.A. stands disposed of accordingly.

Prepared by : ^{REL} 29640
Compared by :

TRUE COPY

(K. B. SANE)

Section Officer (J)

Central Administrative Tribunal,
Ahmedabad Bench.

Sd/-

(M M Singh)

Administrative Member

Sd/-

(S K Jain)

Judicial Member

True Copy

Advocate

In view of the above, I would humbly request you to kindly consider my case keeping in view of the above points and kindly grant me my bread by ordering my reinstatement at an early date, for which act of kindness, I shall ever remain thankful to you.

Thanking you,

Yours faithfully,

ਯਨਾਕ ਸਿੰਘ ਮਾਧੋ ਸਿੰਘ

(JANAK SINGH MADHO SINGH)

True Copy

Do Vasam

Advocate