

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH : CUTTACK

338
ORIGINAL APPLICATION NO: 388 OF 1988

Date of decision: March, 22, 1991

Shri Jagannath Jena and others : Applicants

Versus,

Union of India and others : Respondents

For the applicant : Mr. Ganeswar Rath, Advocate.

For the Respondents : Mr. B. Pal, Senior Standing
Counsel (Railway Amn.)

CORAM:

THE HON'BLE MR. B.R. PATEL, VICE CHAIRMAN

A N D

THE HON'BLE MR. N. SENGUPTA, MEMBER (JUDICIAL)

- 1. Whether reporters of local papers may be permitted to see the judgment? Yes.
2. To be referred to the reporters or not? No.
3. Whether Their Lordships wish to see the fair copy of the Judgment? Yes.

J U D G M E N T

B. SENGUPTA, MEMBER (JUDICIAL),

Sixty seven persons have

filed a joint application seeking the reliefs of quashing the order of retrenchment (Annexure-2 series) and a further direction to the Respondents to appoint them on regular basis. The applicants have alleged that they were employed as Casual Labourers sometime in the year 1961 and continued to work till 1988 and as such they acquired temporary status. In 1987 they filed four Original Applications being numbered as Original Application Nos. 284, 285, 321 and 322 of 1987 challenging the orders of termination of their employment. In those applications this Tribunal vide Annexure-1 passed an order directing the Railway Authorities to prepare a seniority list of Casual workers Division-wise and to absorb them as and when regular vacancies arose. After the passing of the judgment in OA 284 of 1987, they (the applicants) filed a petition for special leave to appeal before the Honourable Supreme Court but others could not. In that special leave petition the Hon'ble Supreme Court granted some stay and the persons who were applicants in OA 284 of 1987 were again employed. The applicants have alleged that the Railway Administration has not prepared any list as directed

*Mem. Encl. 6
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by this Tribunal nor have they taken any steps to absorb them or give them the benefit admissible under Section-25-F of the Industrial Disputes Act. The other allegation in the application, for the present need not be set out.

2. The case of the Railway Administration is that the applicants were employed as Seasonal Worker and their appointment was for only a specific period and that for a specific work during a part of a particular time. Their appointment was not casual or regular appointment nor ~~could~~ have such a character, in view of the nature of ~~their~~ employment. The Railway Administration has also maintained in its counter affidavit that even if the applicants by virtue of the previous judgment delivered by this Tribunal, would be considered for regular appointment, as the persons who are senior to them as Casual Labourers are being appointed and ~~there~~ are some others of that category still to be appointed., the applicants cannot claim any appointment. On a perusal of the affidavit in the pleading, there can be no doubt that almost the selfsame matter ^{pleaded} was in the previous applications and in those applications the same issue with regard to the nature of work performed by the applicants and their rights came to be decided. Therefore,

M. S. S.

the present application cannot be said to be barred by resjudicata. There has also been an order that a list is to be prepared and as and when regular vacancies arise, the casual labourers are to be absorbed, if they have eligibility, in order of seniority. Therefore, there is absolutely no further necessity to pass the self same order again.

3.

The application is accordingly disposed of. We make no order as to costs.

Amrit Mohanty 22.3.91
.....
VICE CHAIRMAN

Max Singh 22.3.91
.....
MEMBER (JUDICIAL)



Central Administrative Tribunal,
Cuttack Bench: K. Mohanty.