

2

2

CENTRAL ADMINISTRATIVE TRIBUNAL
CUTTACK BENCH, CUTTACK.

Original Application No.321 of 1990.

Date of decision : 15.4.1991.

Chamar Oram and others....

Applicants.

Versus

Union of India and others ...

Respondents.

For the applicants ... M/s.R.B.Mohapatra,
N.Jhujhar Singh
S.C.Mohanty, Advocates.

For the respondents ... Mr.L.Mohapatra,
Standing Counsel (Railways)

C O R A M:

THE HONOURABLE MR.B.R.PATEL, VICE-CHAIRMAN

A N D

THE HONOURABLE MR.N.SENGUPTA, MEMBER (JUDICIAL)

1. Whether reporters of local papers may be allowed 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.

JUDGMENT

N.SENGUPTA, MEMBER (J) The six applicants have prayed for reinstating them in service, to regularise their services and to declare them permanent.

2. The applicants have averred that they were working as casual labourers in Chakradharpur Division of the South Eastern Railway but their services were terminated on 5.10.1983 though persons junior to them continued in service. They were working as casual labourers from May, 1986 and their employment was continuous till 5.10.1983

Handwritten signature: N. Sengupta

As they worked for more than two years continuously, they qualified for acquiring the status of temporary Government servants. They have further stated in their applications that the respondents entrusted the work of engaging labours to certain contractors which is clearly illegal and arbitrary. After the date when they were not entrusted with any work, representations were made in January, 1989 to Respondent No.2 by registered post but no reply was received. Subsequently, another representation was made but that too has remained pending.

3. Though no counter has yet been filed, yet in view of decision in a similar case decided on 27th March, 1991, we have heard Mr. R. B. Mohapatra, learned counsel for the applicants and Mr. L. Mohapatra, learned Standing Counsel (Railways) for the respondents. O.A. 221 of 1989 was filed by two persons who were also working as casual labours in Chakradharpur Division of the South Eastern Railway and their services were also terminated with effect from 5.10.1983, the same date when the present applicants alleged their services to have been terminated. Mr. L. Mohapatra, learned Standing Counsel (Railways) submits that the applicants did not perform their duties properly for which reason the Railway Administration felt the necessity of ^{engaging} ~~keeping~~ labourers through contractors and the applicants cannot now be allowed to say that the Railway Administration did not provide them with any work. The applicants in O.A. 221 of 1989 were similarly situated as the present applicants. Therefore, the order passed in that case would govern the rights of the

Mr. Eepts
15/4.

present applicants. Ofcourse, in the present case there is no submission that the Railway Administration has agreed to reinstate the applicants to their former employment, but as in O.A.221 of 1989 the Railway Administration agreed to reinstate the applicants therein in their former posts, they cannot refuse reinstatement of the present applicants as such refusal would amount to an unreasonable discrimination. In view of the circumstances stated above, we would direct that the applicants be given employment according to a scheme to be prepared for the purpose, which would be for absorption of all such casual labours according to their seniority. Mr. L. Mohapatra has contended that some of the applicants were guilty of misconduct, we have no materials on this regard before us. But however we would observe that the Railway Administration would have their right to proceed against the present applicants or any of them if any instances of misconduct after their/his reinstatement comes to their notice.

4. This application is accordingly disposed of.

No costs.

B. S. Mohapatra
..... 15.4.91
Vice-Chairman



M. S. Choudhary
..... 15/4/91
Member (Judicial)

Central Administrative Tribunal,
Cuttack Bench, Cuttack.
April 15, 1991/Saranggi.