

Central Administrative Tribunal,

Calcutta Bench.

R.A.No. of 97.

(Arising out of O.A. 538 of 96 - Order passed on

10.01.97.

In the matter of :

An application for Review of the Order dated 10.01.97 ... 2.1.2/97
in O.A. 538 of 96;

OR

DATE OF RECEIPT

BY PO. RA NO. 11/97

REGISTRED NO.

(OA NO. 538/96), M/s
REGISTRAR

Sk. Hafijur Rahaman & Ors

Vs.

Union of India & Ors.

The humble applicants above named most respectfully sheweth :

1. That the Order dated 10.01.97 in the above case passed by Hon'ble Tribunal reads as follows :-

"In view of the aforesaid circumstances, putting burden of proof upon the Applicants we also find that the application is barred by law of limitation and suffers from defects of necessary parties. As such we do not find any merit in the case and thereby the application is dismissed awarding no costs."

Copy of the said Order dt. 10.01.97 is annexed as 'RA-1'.

2. That the instant application arised out of the fact that the concerned Railway Authorities committed an error in withholding offer of engagement as Casual Labour/Substitutes illegally and without any valid justification. This is in complete violation of the extant rules on the subject which has caused irreparable loss and injury to the applicant. More so when the juniors to your applicants have been screened and given offer of appointment against permanent posts.

3. That even though the applicants had worked as unapproved substitute in the Sealdah Division for more than 180 days prior to 80 and between 80 and 83 their cases have not been considered by the authorities in terms of the Board's letter dt. 20.11.91 according to which the Group 'D' vacancies should be filled up by the Casual labours and substitutes on the basis of their empanelment as casual/substitute labours..

4. That the Railway Board issued a general Circular dated 2.3.87 and another dated 4.3.87 directing all the Project Offices and Divisional Offices to give wide publicity to the notices calling for representations supported by proper documentary evidence of their previous work. But unfortunately the direction of the Railway Board were not properly followed by the subordinate offices in so far as giving wide publicity to the notice calling for representations.

5. That the abovementioned applicants pray your Lordships kind indulgence to grant this Review Petition on the following grounds amongst others :-

G r o u n d s:

1. Because the Order dated 10.01.97 of the Ld. Tribunal is against the law and facts of the instant case;
2. Because the Ld. Tribunal failed to appreciate that the Railway Board's general circular dated 2.3.87 and letter dated 4.3.87 were never circulated nor served on the applicants and hence there is no lapse on the part of applicants;
3. Because the Ld. Tribunal failed to appreciate that the signatures and stamp given in the Certificates by the Station Superintendent were much earlier ~~and~~ whereas the specimen signature given is of a later date when the earlier incumbent has been transferred;
4. Because the Ld. Tribunal failed to appreciate that the signature which cannot be deciphered to ascertain the name of the signatory, specially to those who are not associated with the signature are always illegible. That does not mean that the signature is not genuine at all. This is the observation made by the Hon'ble Tribunal in OA 1194/1994 and finally concluded with the remarks that "I am therefore of the opinion that the reasoning given by the author of the "speaking Order" are not at all acceptable to me." (Para 9 of the said Judgement)
5. Because the Ld. Tribunal failed to appreciate that it is a subsisting and recurring cause. It has been categorically

stated and an averment has been made in the Application that that they were assured by the concerned authorities that their cases will be scrutinised in due course and that they are no required to file any further application.

In this connection Para 6 of the Judgement delivered on 23.8.93 in OA 333 of 1988 is reproduced below :

"In view of the above position we do not wish to dismiss the application only on the ground of limitation."

6. That the applicants in the instant case are similarly situated persons and the benefits of the judgements annexed with the Written Statement submitted by the applicants.
7. Because the Ld. Tribunal failed to appreciate that the Respondents never gave any copies of the lists of substitute workers dated 9.10.88 and 22 18.X.85 to the applicants nor pasted in the Notice Board for publicity. Further there is no averment in the reply submitted by the respondents.
8. Because the Ld. Tribunal failed to appreciate that a weeping statement made by the respondents that all the certificates submitted by the applicants are not genuine without any supporting evidence is not at all tenable.

On the facts and in the aforesaid circumstances, the applicants herein submit that the aforesaid order dated 10.01.97 passed by the Hon'ble Tribunal may graciously be revised and appropriate order be passed as otherwise your applicants will suffer irreparable loss and injury and in consequence thereof various legal and administrative complications are bound to arise.

Thus this application is made bonafide and for ends of justice.

 Hon'ble Tribunal's attention is drawn to the Summary Written Argument given along with Judgement/order annexed with it. P/4

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P R A Y E R.

In view of the above facts and circumstances of this case your applicants pray for your Lordships indulgence to:

a) Review the Order dated 10.01.97 (Annexure RA-1) passed in O.A. 538 of 96 in re.

Sk. Hafijur Rahaman & Ors

Vs.

Union of India & Ors

and recall the said order and pass an appropriate order in the light of the above.

b) Any other order(s) as the Hon'ble Tribunal deems fit and proper.

Affidavit.

I, Sk. Hafijur Rahaman, S/o Abdul Rahaman, aged about 31 years, worked as substitute in the office of the Station Supdt., Eastern Railway, Sealdah at present residing at 3/A/N/21, Gas Street, Calcutta-9, do hereby verify and solemnly affirm and state as follows :-

2. That I have gone through the application and say that what is stated therein is true and correct as on the basis of my personal knowledge and information derived from the records of the case.
3. That I am fully conversant with the case and am competent to swear the affidavit.
4. That I have been authorised by all other applicants to swear the affidavit for and on behalf of all of them.
5. That I have not suppressed any material facts.

Place: Calcutta

Dated: 21.2.97

Solemnly affired before

me. A. K. Bandyopadhyay
Advocate. 21/2/97

Hafijur Rahaman

Deponent.

Identified by me

Phulchandra Das

ADVOCATE

To: Registrar,
CAT/Cat. Bench