

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

Present : Hon'ble Mr. Justice S.N. Mallick, Vice-Chairman
Hon'ble Mr. B.P. Singh, Administrative Member

- (1) O.A. No. 847 of 1996
Manoj Kumar Roy & Ors.
- (2) O.A. No. 848 of 1996
Bibhuti Mahato
- (3) O.A. No. 849 of 1996
G.Chandra Sekhar Rao & Ors.
- (4) O.A. No. 949 of 1996
Rajen Bauri & Ors.
- (5) O.A. No. 514 of 1998
Anukul Sharma & Ors.

... Applicants

-vs-

- (1) Union of India, service
through the General Manager,
S.E. Railway, Garden Reach,
Calcutta - 700 043 ;
- (2) Divisional Railway Manager,
S.E. Railway, P.O. Adra,
Distt. Purulia ;
- (3) Sr.Divisional Personnel Offi-
cer/Divisional Personnel Offi-
cer, South Eastern Railway,
P.O. Adra, Distt. Purulia ;
- (4) The Chairman, Railway Board,
Rail Bhavan, New Delhi.

... Respondents

For all the applicants : Mr. B.R. Das, counsel
Mr. B.P. Manna, counsel

For the respondents : Mr. S. Choudhury (appearing
in O.A.Nos. 847/96, 848/96,
849/96 and 949/96)
Mr. P. Chatterjee, counsel
(appearing in O.A.No. 514/98)

Heard on : 31.8.99 & 16.11.99 - Order on : 25-11-1999

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S.N. Mallick, VC

These five applications have been heard analogously as identical facts and common issues are involved.

2. O.A. 847/96 has been filed by one Manoj Kumar Roy and 27 others. O.A. 848/96 has been filed by the sole petitioner Bibhuti Mahato. The petitioners in O.A. 849/96 are G.Chandra Sekhar Rao & 9 others. O.A. 949/96 has been filed by one Rajen Bauri & 9 others, while O.A. 514/98 has been filed by one Anukul Sharma & 6 others.
3. The respondents in all the aforesaid cases are same.
4. Mr. B.R. Das, Ld.Counsel leading Mr. B.P.Manna, Ld.Counsel have appeared for all the petitioners in five applications and Mr.S.Choudhury, Ld.Counsel has appeared for the Union of India and other respondents except in O.A.514/98, which is represented by Mr.P.Chatterjee, Ld. Counsel.
5. The principal reliefs claimed in all the aforesaid cases are the same, which are quoted below :-
 - 8.(i) To consider the petitioners for employment as against vacancies/posts in Annexures 'A' & 'B' or any other vacancies/posts as are likely to be notified in Group 'D' cadre by way of special consideration as sons of loyal staff as per directives of the Railway Board in favour of non-participant Railway employees in the Railway Strike.
 - (ii) To consider the analogous representations being Annexure-D from the petitioners by way of extension of the benefits as held by the Allahabad Bench of the Hon'ble Tribunal in O.A.No.1383 of 1993 so that the petitioners may be considered for appointment as Group D posts/vacancies notified or are likely to be notified in the Department.
6. Annexures to all the applications are also identical.

7. The facts are as follows :-

The respondent railway authorities issued one advertisement/notification bearing No.TC/Casual Labour/PT.III/4643 dated 13.11.95(Annexure-A), whereby G. M.'s sanction for 4099 casual labours for Track maintenance from 1.10.95 to 30.9.96 for a number of Divisions including Adra Division was notified. The sanction for Adra Division for such posts was 263 in number. It was provided there that the Division concerned should ensure availability of funds for operation of the sanctions. It is alleged that all the petitioners submitted applications before the competent authority i.e. the respondent No.2 for employment in such sanctioned casual posts for Adra Division. It is the further case of the petitioners that subsequently the respondent authorities issued another Notification dt.1.3.96(Annexure-B) regarding recruitment of Substitute Safaiwala in Group-D category of Adra Division. Under this notification, applications were invited from the eligible candidates in the prescribed proforma for recruitment of 114 Substitute Safaiwalas in Group-D category of Adra Division, break up being 57 UR, 17 SC, 13 ST and 27 OEC. It was provided in the said notification that wards and immediate dependents as per pass rules of the serving railway employees may apply for such posts along with the declaration of the serving railway employees in the prescribed proforma duly endorsed by the concerned Unit Supervisor/Controlling Officer. It is the categorical case of the petitioners that they submitted such applications before the respondent No.2 for such appointment. It is their further case that the petitioners had all the requisite qualification for such appointment and in addition to that they being sons of the working/retired railway employees and residents in the local limits of the Railway Establishment, were entitled to get priority over other applicants and furthermore, they being the sons of "loyal

employees*, who did not participate in the Railway Strike in 1974 should be provided with such employment. The petitioners submitted representations before the respondent No.2 as per Annexure-D for giving them such employment. In O.A. 847/96, it is stated that among the 28 applicants, copies of representations filed by petitioner Nos. 1 and 2 have been annexed as per Annexure-D to the O.A. which are dated 19.4.96 and 16.4.96 respectively.

8. In O.A. No.848/96, the petitioner has referred to his representation dt.16.4.96 as per Annexure D1.

9. In O.A. No.349/96, we find copies of representations dated 13.5.96 and 31.5.96 as per Annexure D1 and D2 filed by the petitioner Nos. 3 & 5 respectively. Regarding others, it is stated that similar representations were submitted.

10. In O.A. No.949/96, copies of two representations/^{are} dt.16.4.96 submitted by applicant Nos. 1 & 2 respectively.

11. In O.A. No.514/98, copies of similar representations dated 1.9.97 submitted by applicant No.1 and applicany No.6 have been filed.

12.* It is the common grievance that the respondent authorities have not passed any order on the aforesaid representations and have not followed the direction given by Allahabad Bench of this Tribunal in O.A. 1383/93 filed by one Rakesh Kr. Khanna & Ors., who are similarly circumstanced like the present applicants. Final order of the Allahabad Bench, as relied upon, is Annexure E dt.20.1.94.

13. All the applications have been contested by the official respondents and the material allegations made in the respective OAs have been denied and challenged.

14. It is stated that in pursuance of the notification dt.13.11.95 as per Annexure A, casual workers for track maintenance for Monsoon Patrolling for the period from 1.10.95 to 30.9.96, as provided therein were engaged on the basis of the applications filed after

screening and only those were engaged who were found suitable as per notification. Regarding the Employment Notice dt:1.3.96 as per Annexure 'B', it is the case of the respondents that huge number of applications have been received by the respondent authorities and the task of appointment have not been initiated till this date and that as such it is not possible for the respondents to say whether the applications of the present applicants have been received or not. It is further stated that the question of appointing the petitioners as sons of loyal workers who did not participate in the Railway Strike in 1974, does not arise at all at present as more than 23 years have ~~been~~ passed since the said strike when most of the applicants were minor at that point of time.

15. We have heard the submissions of Mr. Das and Mr. Choudhury, Ld. Counsel appearing for the petitioners and the respondents respectively.


16. It is conceded that the provision for providing work to the loyal employees is no longer in force. The undisputed position is that the railway authorities' circular in this regard has since been struck down by this Tribunal for being discriminatory and violative of the Articles 14 and 16 of the Constitution of India. Be that as it may, the question is whether the respondent authorities are under any obligation to consider the petitioners' case for employment in the vacancies as notified under Annexures A & B respectively. It has been rightly submitted by Mr. Choudhury that Annexure A provides for employment of casual labours for track maintenance for the period from 1.10.95 to 30.9.96, which has long expired. The question of employing the petitioners in the said post after the expiry of the term does not arise at all. Regarding notification as per Annexure B, it is the case of the respondents that they are not in a position to say whether the petitioners filed any application for the said post or not. It has been categorically asserted ~~that~~ in all the OAs by the petitioners concerned


that they applied for the said post advertised as per Notification dated 1.3.96 under Annexure B. Although no copy of such applications has been annexed to the respective OAs, there is no reason to disbelieve the statement of the petitioners prima facie that they applied for such post in terms of the notification dt.1.3.96. It is submitted by Mr.Choudhury, Ld.Counsel for the respondents on the basis of the replies filed on behalf of the respondents in all the OAs that the selection process as per Annexure B has not yet been initiated. Under such circumstances, we are of the view that the respondent authorities, while initiating the recruitment process as per Annexure B should consider the petitioners' case for such appointment, provided they have filed their applications for such posts in terms of the notification dt.1.3.96. Mr. Das, Ld. Counsel for the applicants has relied upon the direction given by Allahabad Bench of CAT in O.A. 1383/93 as per Annexure E and submits that a similar direction should be given upon the respondent authorities to consider the representations filed by the petitioners as annexed to the respective OAs. It may be noted that from among all the applicants, only a few of them filed representations to respondent No.2. Copies of representations filed by others have not been produced before us. There will be no point in asking the respondent authorities to consider the aforesaid representations as per Annexure-D series as admittedly, the recruitment process is yet to be started in pursuance of the notification dt.1.3.96(Annexure-B). It is to be verified whether the applicants or any of them have filed applications for the post as advertised as per Annexure-B.

17. Accordingly, we dispose of all the O.As. being Nos. 847/96, 848-96, 849/96, 949/96 and 514/98 under this common judgment with a direction upon the respondent authorities to finalise the matter of recruitment on the basis of the notification dated 1.3.96 and to

consider the candidature of the applicants in the aforesaid OAs., provided they have applied for the said post in terms of the aforesaid notification to the appropriate authorities within a period of six months from the date of communication of this order. We further provide that if the respondent authorities find that any of the applicants cannot be considered for such appointment for having not filed any application as per notification dt.1.3.96 or on any other ground, they should be intimated of their decision within the aforesaid period.

18. No order is made as to costs.


(B.P. Singh)
Member(A)


(S.N. Mallick)
Vice-Chairman