

In the Central Administrative Tribunal
Calcutta Bench

OA No.1101/96

13-6-03

Present : Hon'ble Mr.S.Biswas, Member(A)
Hon'ble Smt .Shyama Dogra, Member(J)

Md.Ainul Huda & 11 Others

-Vs-

E. Rly

For the applicants : Mr.B.Mukherjee

For the respondents : Dr.(Ms) S. Sinha

ORDER

Smt .Shyama Dogra, Member(J) :

There are 12 applicants ~~who have made prayer to allow~~ them to join to pursue the matter because of similar cause of action. Their prayer is allowed.

2. The applicants have come up with the prayer while filing this OA to direct the respondents to allow the applicants to appear in the screening ~~test~~ and thereafter prayed for absorption as Casual Labour and to maintain their ~~proper~~ seniority position.

3. The applicants were Casual Labourers and they were called for screening test by an ~~order~~ ⁱⁿ order on 4-9-86.. They appeared the screening test along with other candidates. A copy of the call letter for screening test is enclosed as Annexure A-1. The applicants were however not called for further process, i.e. Medical Test etc. for their absorption as Casual Labourers after holding the said screening test. Feeling aggrieved by the said ~~action~~ ^{action} of the respondents some of the Casual Labourers approached this Tribunal. Their applications were decided with certain directions to the respondents.

4. It is submitted by the learned counsel for the applicants that the applicants made representations to the respondents making a reference of the decisions of this Tribunal and praying therein that since the applicants are also similarly situated persons, therefore, in terms of orders passed in OAs, the applicants be allowed to appear before the Screening Committee for their Screening Test while extending the similar benefits.

5. It is further submitted by the learned counsel for the

Smt

applicants while referring to Annexure A5, which are the orders of this Bench in OA No.94/94 and 690/94, which has been decided while making reference to the earlier OAs decided by the Tribunal in OA Nos.589/89 and 753/88. The relevant part of the orders passed in OA no.94/94 reads as follows :

" The respondents shall also hold the screening of the present applicants and if found eligible be enlisted in the list of casual labour register as has been done in the case of the applicants in OA 589 of 88 and OA 753 of 88, the respondents shall take appropriate steps to publish result of the screening test of the Catering Department and give them appropriate seniority."

6. The respondents have filed written statement and submitted that the screening test was held on 20-9-86. That on receipt of certain irregularities about the genuineness of the candidates, the process of screening was dropped at the interference of the Vigilance Department. That being aggrieved by the decision of dropping the screening, some of the candidates filed a number of original applications mentioned hereinabove. However, the said benefit cannot be extended to the applicants since they were not the party to the OA, nor they happened to be working hands as Porters at the material time. It is further submitted in the reply that General Manager's sanction for engagement of 75 Casual Labourers were obtained and those have already been filled up.

7. The respondents have also disputed that the office have ever engaged for sundry work of Casual Labourers. In fact, their names appearing in letter dated 4-9-86 are fraudulent act and some fictitious persons have come up to claim their screening test. Even the alleged Call Letters enclosed by the applicants were totally vague and manufactured. They further denied that the applicants have ever worked or they have ever been issued such documents by the respondents. They have also submitted that no such records in regard to the working of the applicants as alleged is available.

8. We have heard the learned counsel for the parties and perused the documents and found that since the respondents have



disputed the engagement of the applicants as Casual Labourers at any point of time and also disputed the genuineness of the documents, therefore, the facts being found to be disputed and the same are required to be adjudicated upon by the concerned authorities, we are of the considered opinion that the matter requires to be referred back to the respondents for consideration and decision on the representation being filed by the applicants which are still pending with the respondents. The respondents are also directed to treat this OA as representation and decide them within a period of 4 months from the date of receipt/production of the copy of the order. The applicants are also directed to furnish the requisite documents before the concerned authorities to show their genuineness and to prove that they have worked with the respondents at the relevant point of time. The respondents after hearing and taking into consideration the relevant documents produced by the applicants, shall pass appropriate speaking and reasoned order thereafter in accordance with law while disposing of their representations within the period specified above.

9. In terms of directions given above, the OA stands disposed of. No costs.

Shyama Dogra 3.6.03
(Smt. Shyama Dogra)
Member (J)

S. Biswas
(S. Biswas)
Member (A)