

CENTRAL ADMINISTRATIVE TRIBUNAL
CALCUTTA BENCH

No.O.A. 1165/96

Dated:22.9.2004

Present : Hon'ble Mr. Sarveshwar Jha, Member (A)

Hon'ble Mr. Mukesh Kumar Gupta, Member (J)

SUSANTA SINGHA RAY AND OTHERS

v.

EASTERN RAILWAY

For the applicant : Shri T.K. Biswas

For the respondents : Shri M.K. Bandopadhyay

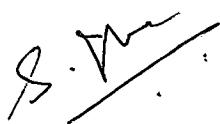
O R D E R

Per Sarveshwar Jha, Member (A)

1. Heard counsel for the parties.

2. This O.A. has been filed with prayer that the respondent No.1 be directed to offer engagement or employment as substitute treating them at par with 62 persons who have been given similar engagement vide order dated 16.9.1994 issued by Assistant Personnel Officer (Annexure A-6).

3. In support of their prayer the applicants have submitted that they have rendered 10 years of service with the respondents from 1985 to 1995. Thereafter they have not been engaged/reengaged by the respondents. They have also claimed that necessary work certificates had been issued to the applicants individually for the periods that they have worked under the respondents from 1985 to 1994/1995. They have also claimed that necessary identity cards were issued to them. The claim has also been made by each one of them that they had been medically examined before they were engaged. It is, however, not clear from their statements that they had actually been



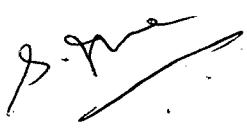
subjected to any medical examination. They have also referred to the decision of the Chief Personnel Officer, Eastern Railway, as communicated vide circular dated 19.4.1993 whereby casual labourers/substitutes engaged on or after 2.1.1981 must have the approval of the General Manager. A reference has also been made to the fact that the genuineness of their having worked as casual labour and casual labour cards have never been questioned by the respondents. They have accordingly claimed that the benefit as has been given to 62 similarly placed workers should be extended to them on the same lines as has been given in the case of the said similarly placed persons.

4. However, on perusal of the reply of the respondents, it is observed that according to them none of the applicants has ever worked under the respondents. They have alleged that all the papers which the applicants have submitted in support of their claims/prayers are fake and fabricated. In this connection, they have made a very categorical statement in para 6.2 of the reply. The respondents have also submitted that service certificates are not issued to casual labourers or substitutes. Accordingly, reference to any such certificate by the casual labourers is not relevant. From what has been submitted by the respondents in para 6.3 of the reply, it is observed that they held a screening test in the case of casual labourers working with them thrice in the years 1978, 1981 and 1990. The applicants did not appear to have appeared in the said screening tests nor in the tests which were held from time to time

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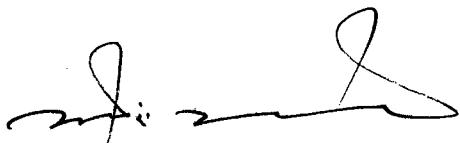
thereafter. They have also referred to the instructions having been issued to the Stations In-charge to send the names of the substitutes of their stations along with their bio data and working particulars for being considered in the screening test. But the names of the applicants were never sent by their concerned in-charges nor did the applicants appear before the screening committee for the purpose of screening. Accordingly, they have claimed that the applicants should have raised objections or should have questioned the fact that their names did not appear in the relevant registers at the material time and not after working for so many years. In para 12 of the reply the respondents have also denied and disputed the fact that any medical/fitness certificate was ever issued in favour of the applicants. According to them, the medical certificate attached to the O.A. is totally manufactured, forged and has no basis at all.

5. On careful perusal of the facts of the matter as submitted by both sides, it is observed that while the applicants have claimed the benefits of their being engaged/employed as substitutes as has been done in the case of 62 other similarly placed employees, they have not been able to substantiate that they worked with the respondents, as claimed by them, for 10 years from 1985 to 1995. The fact that the screening tests were held by the respondents thrice and also subsequently as submitted by them in the reply has not been disputed by the applicants by filing rejoinder. In fact, it appears quite surprising that the claim of the respondents that all the documents submitted by the

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applicants are forged, fabricated and have been manufactured by them to justify their wrong claims has not been challenged and questioned by the applicants at the material time or at this stage by filing rejoinder. It is also surprising that some of the specific points like medical examination/medical fitness certificates have been disputed by the respondents.

6. Under these circumstances, we find that the applicants have failed to substantiate their claim regarding their having worked under the respondents and, therefore, have also failed to establish that their cases are similar to the cases of 62 others who have been given the benefit of engagement as substitutes. Accordingly, we find no merit in the case and accordingly the O.A. is dismissed. No costs.



MEMBER (J)



MEMBER (A)

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