

In the Central Administrative Tribunal
Calcutta Bench

OA No.1502/96
with MA 396/96

Present : Hon'ble Mr.S. Biswas, Member(A)
Hon'ble Mr.N. Prusty, Member(J)

- 1) Ruba Sarkar, D/o Brojo Gopal Sarkar
- 2) Himadri Sekhar Haldar, S/o Rabindra Nath Haldar
- 3) Samsuddin Laskar, S/o Achimoddin Laskar
- 4) Sankar Saha, S/o Panchanan Saha
- 5) S.M. Abdur Rouf, S/o S.M. Mahasin
- 6) S.M. Reajuddin, C/o S.M. Mohasin
- 7) Ashok Kumar Mondal, S/o Mantu Charan Mondal
- 8) Paresh Nath Mondal, C/o Anil Kumar Mondal
- 9) Sujit Kumar Sardar, S/o Late Sachindra Kumar Sarkar
- 10) Jotish Chandra Sardar, S/o Gandhiraj Sardar
- 11) Saroj Kumar Sardar, S/o Late S.K. Sardar
- 12) Prakriti Kumar Patra, S/o Late Parbati Kumar Patra
- 13) Krishna Das Haldar, S/o Herambo Kumar Haldar
- 14) Srijan Kumar Hajra, C/o A. Hajra
- 15) Swaroop Tarafdar, C/o Panchanan Tarafdar
- 16) Gosto Behari Sardar, S/o Anil Kr. Sardar
- 17) Dilip Kumar Sardar, S/o Bhuth Nath Sardar
- 18) Rabindra Nath Naskar, S/o Dhirendra Nath Naskar
- 19) Prasanta Das, S/o Surapati Das

...Applicants

-Vs-

- 1) Union of India through the Secretary, Ministry of Rlys, Rail Bhawan, New Delhi - 1
- 2) The General Manager, S.E. Rly, Garden Reach, Calcutta-43
- 3) The Chief Commercial Manager, S.E. Rly, 14 Strand Road, Calcutta-1
- 4) The DRM, S.E. Rly, Howrah
- 5) The Chief Ticket Inspector, Head Qrs Squad, Howrah Dn., Howrah

...Respondents

For the applicants : Mr.M.K. Bondyopadhyay, Counsel
Mr.T.K. Biswas, Counsel

For the respondents : Mr.S. Sen, Counsel

Date of Order : 10/11/01

ORDER

Mr.S.Biswas, Member(A)

By this application, 19 Bharat Samaj Seva Sangha
Volunteers have claimed absorption in South Eastern Rly on the
ground that they worked as T.C. Volunteers for more than 120 days

502

continuously in 1984 in S.E. Rlys from 2-1-84 to 10-6-84 and their case is covered by the ratio of Hon'ble Supreme Court's decision in C.A. of 1995 in SLP 8867 of 1994 in ^{the case of} Union of India & Others V. Sagar Ch. Biswas & Others. The applicants further clarified that necessary works certificate, were issued in their favour by the then Chief Ticket Inspector Howrah (Al to OA) and their attendance was regularly taken & maintained by Chief T.C. Head Qrs, S.E. Rly. Similar application was moved by another group of 17 T.C. Volunteers in Ganga Mayra's case in OA 994/1989 who got appointment followed by the case of Sagar Ch. Biswas which went to Hon'ble Apex Court. Some of the applicants tried to meet the Railway Authorities for their absorption but it proved abortive and the stand taken was that Railway Board was yet to take a decision on their absorption. They made representations (dated 3-2-95) before GM, S.E. Rly, Chief Commercial Supdt., S.E. Rly etc. but all those evoked no positive response which is why the applicants have moved this OA. They worked as T.C. Volunteers with S.E. Rlys from 2-1-84 to 10-6-84; i.e. in all for over 120 days - thereafter they were disengaged.

2. Heard rival counsel. The learned counsel for the applicant submitted during the final hearing on 17-12-03 photo identities and copies of attendance charts for the applicants and work certificate issued by one A.S. Ghose of S.E. Rly, Howrah. In this connection we have perused necessary citation particularly that of Hon'ble Apex Court in Sagar Ch. Biswas case where the Tribunal order has been discussed to the extent required.

3. The respondent authorities have basically disputed the claim on facts and falsification of work certificate, and the attendance sheet. They pointed out that these 19 applicants who have claimed to be T.C. volunteers first claimed in para 4.3 of the OA as to have been engaged by the S.E. Rly authorities from 16th September, 1994 - obviously to ground the claim that the OA is not hit by limitation, but in subsequent paras (4.4 etc.) they claimed to have worked in S.E. Rly as sponsored by Bharat Samaj

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Seva Sangha w.e.f. 2-1-84 to 10-6-84 when they were disengaged. Though they have annexed a so called attendance sheet starting with one Chittaranjan Naskar and Srijan Hajra etc., no such persons were engaged as per the S.E. Rly's attendance sheets produced before us at the time of hearing - which we have scrutinised. It therefore goes without saying that these are fake T.C. Volunteers who made up their claim as an after thought in the wake of Sagar Ch. Biswas case, wherein the attendance chart w.e.f. January, 1985 the name of Sagar Biswas figures in, the name of the applicants do not figure in any of the volunteers attendance chart maintained by the S.E. Rly authorities and shown to us.

4. We therefore need not at this stage go into the question whether there was an employer employee relationship between these volunteers who worked on a pittance of Rs8/- per day in other cases. This cannot in our view be treated as casual wage even. No such order for casual engagement has been placed before us.

5. Even the copies of work certificates produced by the applicants have been rejected as not genuine. Even on the face of it some of these certificates like that of Samsuddin (applicant No.3) and Krishna Das Haldar etc. who worked respectively from 10-9-85 to 23-3-85 (page 13) and 16-9-84 to 23-3-84 (page 24) are self contradictory working from present date to past date. Further, the S.E. Rly Div. Headquarters was never in Howrah, thus the documents submitted are false on their own showing, even the dates are different than as stated in para 4.4 etc.

6. The applicants submitted fresh identity cards issued by B.S.S. on E. Rly format whereas they are claiming appointment under S.E. Rlys.

7. These being undisputable falsification, we have no hesitation to hold that the decision in Sagar Ch. Biswas case, who actually worked and respondents scrutinised their antecedents earlier

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