

In the Central Administrative Tribunal
Calcutta Bench

OA No.1526/96

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

1) Raj Kumar Poddar, S/o Late Bhagirathi Poddar aged about 32 years ex-substitute Porter, North Frontier Railway, Katihar, residing at Vill Ruidhasa, Ward No.7, Kishangange, (Bihar)

2) Radha Bansfore, W/o Biswanath aged about 28 Years, ex-substitute cleaner, N.F. Rly, Katihar, residing at Qr No.63/M.B. Rly Colony, Kishangunge

3) Gita Devi, W/o Suraj Singh, aged about 30 years, working as ex-substitute cleaner, N.F. Rly, residing at Qrs No.63/M.B. Rly Colony, P.O. Kishangunge

....Applicants

-Vs-

1) Union of India, through the GM, N.F. Rly, Maligaon, Guwahati

2) The DRM, N.F. Rly, Katihar

3) The Area Manager, N.F. Rly, P.O. New Jalpaiguri

....Respondents

For the applicants : Ms (Dr) S. Sinha, Counsel

For the respondents : Ms U. Sanyal, Counsel

Date of Order

: 18/11/03

ORDER

Mr.S.Biswas, Member(A)

The applicants (1,2 and 3) have sought appropriate directions upon the respondents for appointment in Gr.D posts in N.F. Railway on the ground that they worked as substitute porters and cleaners on different dates between the time from 1978 to 1988. Though similar ex-substitutes were reengaged under circular dated 27-5-86, but the applicants were not considered and excluded from similar action. The respondents flouted DRM (P) Katihar's directives in their case and equitable estoppel was violated. Their representations evoked no response.

2. Heard counsel of both sides and considered the necessary facts and submissions.

3. The learned counsel for the respondents in replying to the OA disputed the claim of the applicants as factually

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incorrect and not supported by evidence. Apart from gross violation of limitation, the applicants have furnished particulars and certificates which were not officially issued and there are no records to authenticate these. Even if it is looked into on its face value, the information show that applicant (4) in particular was ~~not~~⁴ engaged locally for some sporadic works and not as substitute. They were not working continuously upto 1987 and 1988 in particular as it is being made out to be. It is denied that DRM gave any such order to regularise them. The respondents have denied the particulars as projected here as factually far from true and do not warrant that such stop gap or casual nature of activities be regularised by way of a normal appointment at this remote date. The applicants hold no authentic documents to sustain their claim vis a vis the ones who were reengaged against on test and continuous work certificates by the respondents.

4. We have considered the submissions carefully. Though it seems to be a fact that the replies suffer from inconsistencies, there is no outright denial of all the particulars furnished by the applicants. But all these also do not include single warrant or engagement order that the applicants were as a matter of fact engaged casually against any permanent nature of work. They hold no such proof to hold them as a casual or constitutious substitute job holder. The certificates, the authenticity of which have been denied and disputed by the respondents, are also on their face truncated, and sporadic to warrant any basis to say that they were engaged for regular nature of work ~~or~~ they were working regularly or continuously. These are contingent nature of work which were paid on daily or job rated basis. These in our view are not by any statute ^{Constitute an} offer of jobs to be regularised against Gr.D posts.

5. Even Bhagwan Sahai case (1989 (2) SCC 299) as cited to be extended is legally and factually distinguishable. In OA 621/1996 dated 1-8-03 this case has been referred, but that is

in a context of claim by Pump House Operators in the skilled category who had authentic supporting documents of continuous appointment and their representations were only referred to the Department for consideration.

6. The applicants have cited an order dated 3-3-87 which has been disputed to be correct and further the learned counsel for the respondents have encountered the claim with a communication to the applicants dated 26-7-93 which runs as follows :

" Since your engagement was itself irregular for which you have been discharged w.e.f. 1987 - as such your request for further engagement cannot be considered now."

7. The applicants made no appeal against this nor they disclosed this fact in their application of 1996.

8. On the question of limitation, assuming also that there were certain sporadic casual engagement upto 1987, the OA is grossly time barred in as much, even in the relevant para no prayer for condonation of delay was sought.

9. In view of the foregoing, we find the OA is devoid of merits and barred by limitation. We accordingly dismiss the OA with no order as to costs.


Member (J)


Member (A)