

CENTRAL ADMINISTRATIVE TRIBUNAL  
CALCUTTA BENCH

OA No.1183/97

Present : Hon'ble Mr.B.V. Rao, Member(J)  
Hon'ble Mr.A.R. Basu, Member(A)

Krishna Kumar Verma and Ors

-Vs-

- 1) Union of India through the General Manager, Eastern Rly, 17, Netaji Subhas Road, Calcutta - 1
- 2) The DRM, Eastern Railway, Malda Town, Post Office Jhaljhalia, Dist.Malda
- 3) DPO, Eastern Railway, Malda Town
- 4) Dvl. Commercial Superintendent, Eastern Rly, Malda town
- 5) Dvl Safety Officer, Eastern Rly, Malda Town

For the applicants : Mr.A. Chakraborty, Counsel

For the respondents : Ms R. Basu, Counsel


Date of Order : 10.11.2006

ORDER

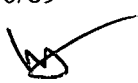
Mr.B.V. Rao, JM

Shri Krishna Kumar Verma and 39 others have filed this OA under Section 19 of A.T. Act, 1985 praying the following reliefs :

- a) Since the applicants have common cause of action emanating from the non-compliance of the same judgement in O.A. No.590/89 dated 19-3-92 by the respondents and suffered from the common apathetic attitude of the respondent in the shape of cancellation of appointments and their common remedy being reinstatement in service. Permission be granted to the applicants to join them in one application under rule 4(5)(a) of the CAT (Procedure) Rules, 1987.
- b) In view of the impugned order No.ET-3/Hot Weather/MLDT dated 12-7-88 of OA No.590/89 (Arun Kumar Ram & Ors case) having been quashed by the Hon'ble Tribunal in the judgement dated 19-3-92, the applicants are automatically entitled for their reinstatement. Hence a direction be issued to the respondents to reinstate the applicants as Hot Weather Staff forthwith otherwise it will be violative of Article 14 & 16 of the Constitution.
- (c) Leave may be granted to add applicants No.2 to 40 in the same petition as the cause of action are same and the applicants are similarly situated and similarly circumstanced under Rule 4(5)(a) of the Administrative Tribunal Act.



2. The brief matrix of the case according to applicants are that they had been engaged by the Eastern Railway authority as Hot Weather Staff on different dates from 1980 to 1987 and were issued with the Identity Cards by the Station Master along with the Office Order issued by DPO/Malda, Eastern Rly (Annexure A). The DRM Eastern Rly issued a letter on 6-7-87 and 10-7-87 and instructed in continuation of office order dated 30-3-87 that the case of applicants worked as Casual Hot Weather Staff in previous years have been considered for reengagement and as such they are posted at Stations shown against each in the letter (Annexure B) since they have worked for more than 120 days in different spells and acquired temporary status as admissible according to Railway Board's circular dated 11/25-1-65 and IREM Rule No.2501 (B). The applicants further submitted that the APO feared that a good number of files might have been missed in course of transit from Howrah Dvn Office to DRM Office, Malda and he expressed his regret for the hardship caused to the applicants. In the subsequent lists also the applicants names were included for working as Hot Weather persons in the year 1987 and the lists were issued by the competent authority for reengagement of Hot Weather Staff of 1987. They further contended that thereafter their engagement letters were cancelled vide letter dated 12-7-88 which was jointly signed by Dvl. Safety Officer, Malda, Dvl. Commercial Supdt. Malda and DPO Malda. Being aggrieved with this, a large number of Hot Weather staff of Malda town filed OA bearing No.590/89 before this Bench. After hearing the OA the Tribunal quashed the impugned cancellation order dated 12-7-88 and upheld the engagement letters and further observed that the consequences of the order and judgement would naturally follow and given effect without any delay. Against this judgement and order the respondents filed a Review No.55/1992 and the same has been dismissed by this Bench on 26-6-92. As the judgement became final the present applicants approached the Railway Authorities for granting them the benefits like the applicants of OA No.590/89, but the respondents told them verbally that since the present applicants were not parties to the OA No.590/89 they will not get any benefit of the judgement in OA No.590/89. The applicants further contended that having been placed in a similar position they are eligible for employment like the applicants of OA 590/89



without any further question. Hence the applicants approached this Tribunal to ventilate their grievances.

3. The respondents contested the matter by filing a reply stating that the applicants have no cause of action for the said application and the application is not maintainable in the eye of law. They further contended that the applicants were never engaged by the Railway Administration and as such the question of issuing Identity card does not arise. They further stated that Malda Dn. was formed in the year 1985 by bifurcating some portion of Howrah Division. A list of Hot Weather Staff was forwarded by the DRM Howrah Dn. to the DRM Malda Dn. for their future utilization in the Malda Dn. vide Office memo dated 21-2-86. In the year 1987 several such fake and unauthorized orders of engagement were issued with regard to Hot Weather Staff without any record and basis with the intention of personal gain by the then APO Shri S.C.P. Ambsta in collaboration with some motivated persons for which he was taken under D&A Rules. When the said malpractice and irregularities came to the notice of the competent higher authority a committee for screening of Hot Weather Staff was constituted comprising of 3 Sr. Scale Officers of the Dn. After screening of all papers and records the said committee cancelled the fake and unauthorized orders of engagement. A list of genuine Hot Wether Staff was prepared but the applicants of this OA did not figure in the said list of genuine Hot Weather staff for further utilization. They further states that in two similar cases, i.e. regarding engagement of Hot Weather Persons this Bench vide their judgement in OA 891/98 and in OA 1308/2000 dismissed the applications and that the order and judgement passed by this Bench in OA 590/89 was an order in persona and not in order in ram. Hence the said order of the Tribunal in OA 590/89 is not applicable to the applicants. In view of the facts stated in the reply the respondents contended that the applicants are not entitled to claim any relief and the same is liable to be dismissed with costs.

4. Heard both the parties.


5. The learned counsel for the applicants reiterated the facts and circumstances of the case and he repeatedly stated before us that the applicants are entitled to get the reliefs



as prayed in the application since they worked for a long time in the Railways as casual Hot Weather Staff and the authorities concerned issued Identity Cards and reengagement letters to them. He also submitted judgement and order copies in two cases, i.e. in OA 455/97 decided on 9-6-2004 and 1138/97 decided on 21-4-2004 by this Bench and he prayed to consider the order and judgements in the instant OA.

6. Per contra the learned counsel for the respondents vehemently argued and strongly opposed the submissions of the learned counsel for the applicants. He mainly contended that the applicants were never utilized in the Railways in any capacity and their names did not figure in the list prepared by the authorities and submitted in the matter of OA 315 of 1998. He further contended that the applicants produced fake and manufactured documents as such Identity Cards which were produced by the applicants are not similar to the one issued by the Railway Administration. The Identity Card must be signed by a Gazetted Officer with his seal of office, but the identity cards produced by the applicants do not bear the signature of the Gazetted Officer. He further contended that the judgement and order in OA 590/89 was an order in persona and not an order in ram. He further stated before us that similar cases have been dismissed by this Bench, i.e. in the case of Shri Jagannath Paswan and 36 Others v. Union of India and Others in OA No.891/98 and in the case of Soumitra Roy v. Union of India and another in OA 1308/2000.

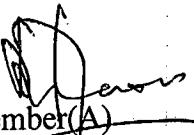
7. We have considered the submissions and arguments of both the parties. We have given our thoughtful consideration to the rival contentions. It is the case of the applicants that they had worked under the Railways as Hot Weather Staff during the period between 1981 and 1987 and thereafter they were disengaged. It is not understood why they have filed the instant application after a period of about 10 years after their disengagement. No explanation has been given for such inordinate delay. We have also considered the reply of the respondents in which it is specifically averred that the applicants had never worked under the respondents and the documents they have produced are all fake and manufactured. Furthermore, the respondents have categorically stated that a list of Hot




Weather Staff who had earlier worked were supplied by the Eastern Rly authorities before this Bench in OA No.590/89. It is pointed out that the name of none of the applicants figures in the list which was prepared on the basis of the report of the Screening Committee which was constituted consisting of 3 Sr. Scale officers of the Dn. We have carefully gone through the judgement and orders of this Bench filed by the respondents in OA No.891/98 and 1308/2000 and we find that both the OAs were dismissed by this Bench which are similar to the facts of the instant OA.

8. Considering all, we are of the opinion that the application is hopelessly barred by limitation and the applicants have not been able to establish their claim that they had ever worked under the Rlys at any point of time by producing any documents. The identity cards and other documents produced by the applicants cannot be relied upon and no direction can be issued on that basis to make roving enquiry.

9. In view of the above we are unable to entertain this application and accordingly the same is dismissed. No costs.

  
Member(A)

  
Member(J)