

CENTRAL ADMINISTRATIVE TRIBUNAL

CALCUTTA BENCH

No. O.A.531 of 1997

Date of order : 9.1.2003

Present : Hon'ble Mr. B.P. Singh, Administrative Member

Hon'ble Mr. N. Prusty, Judicial Member

ANANDA KR. BHADURI & ANOTHER

VS.

UNION OF INDIA & ORS.

For the applicants : Mr. A. Chakraborty, counsel

For the respondents : Mr. T.P. Biswas, counsel

ORDER

In this application, the applicants have prayed for the following reliefs:-

- "(i) Declaration that the applicants are entitled to be regularised w.e.f. 1/4/73 as some employees of the erstwhile construction unit juniors to the applicants have been regularised with effect from 1/4/73 in view of the order dated 29.6.95;
- (ii) An order do issue directing the respondents to regularise the applicants with effect from 1/4/73 enabling them to acquire qualifying service for pensionary benefits;
- (iii) Leave may be granted to add the another applicant in the original application under 4(5)(a) of the CAT Procedure Rule."

Case of the applicants is that they were initially appointed in the Construction Unit on diverse dates between 1967 and 1968 and after completion of 12 years' continuous services in the Construction, they were absorbed in the Open Line under T.C.I. S.E. Railway, Kharagpur and Carriage Foreman, S.E. Railway,

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Kharagpur respectively. The applicants have stated that vide order dated 24.12.1973 the Railway Board informed the General Manager of all Indian Railways that they have decided that 40% of the temporary Non-Gazetted posts in each grade in the Construction Department should be sanctioned permanently as Construction Reserve from 1/4/73. The 'Construction Reserve' was to cover projects including those on open lines in respect of work consisting more than Rs.4 lakhs. It was also directed that the strength of the Construction Reserve should be worked out in the average of the number of temporary posts that were current on 31.3.71, 31.3.72 and 31.3.73. On 26.8.1986, the sanction of the General Manager, S.E. Railway, Garden Reach was communicated to the creation of Construction Reserve Posts in various Class-IV and Artisan categories as a permanent measure. It was also decided that the staff who were on roll as on 1.4.73 and completed three years' of continuous service are entitled to be regularised w.e.f. 1.4.73 which would be clear from Annexure 'B' to the O.A. The applicants have further submitted that inspite of the General Manager's order for creation of P.C.R. posts w.e.f. 1.4.1973, the approval of the Chief Telecommunication Engineer(Construction), S.E. Railway, Garden Reach was communicated on 11.5.1992 for conducting a screening test for regularisation of the erstwhile construction casual labours w.e.f. 1.4.1973. According to the applicants, they have completed 3 years' continuous services as on 1.4.1973 and were on roll as on 1.4.1973, but they were not considered for their regularisation w.e.f. 1.4.1973 whereas some other employees, junior to them, were regularised w.e.f. the said date.

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Some of the casual labours of the Construction Unit who were on roll on 1.4.1973 and have completed 3 years' continuous services on that date. /and posted in the open line, moved as applications in the Central Calcutta Bench and Q.A.916/1994 Administrative Tribunal, bearing No. Q.A.917/1994/ praying for direction upon the respondents to regularise them w.e.f. 1.4.1973. After hearing both sides, the Hon'ble C.A.T. directed the respondent authorities to consider the case of the applicants therein for regularisation in services w.e.f. 1.4.1973/and to grant the prayer if such benefits were given to other similarly situated employees. In pursuance of the said orders of C.A.T., Calcutta Bench, orders of regularisation were issued by the respondents in favour of the applicants of the Q.A. and Q.A.916/1994 No.917/1994/Copy of which are annexed as Annexure 'C' and C/1 to this Q.A.). The present applicants being similarly placed and circumstanced have made representations for their regularisation in services, but the same were not disposed of. The applicants also in this Q.A. have/referred to a subsequent decision of this Bench in Q.A.No.882/1995 dated 27.2.1997 in this regard, operative part of which runs as follows:-

"For reasons stated above, we dispose of the application with a direction upon the respondents to constitute a Screening Committee with a view to determine whether the present petitioners are similarly circumstanced as the applicants of Q.A.No.916/1994 and if they are so found, the benefit of that judgment shall also be extended to the present petitioners and the entire exercise shall be completed within 12 weeks from the date of communication of this order. In case the petitioners are held to be not similarly circumstanced, a speaking order shall be passed and communicated to them."

2. We have heard the ld. counsel for the applicants and the ld. counsel for the respondents. We have gone through all the documents available on record.

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3. Ld. counsel for the applicant submits that a suitable direction may be given to the respondents to consider the case of the applicants in view of the aforesaid judgment dated 27.2.1997 passed in Q.A.No.882/1995 in case of some other similarly placed employees, within a stipulated period and if they are found suitable, they should be granted regularisation in services w.e.f. 1.4.1973.

4. Ld. counsel for the respondents has no objection to the above prayer of the ld. counsel for the applicant.

5. In view of the above, we dispose of this application with a direction to the respondents to consider the case of the applicants for the purpose of regularisation in services in the light of the order dated 27.2.1997 passed by the Calcutta Bench of this Tribunal in Q.A.No.882/1995 within a period of 3 months from the date of communication of this order and <sup>communicate</sup> a reasoned and speaking order in this regard to the applicants within 2 weeks thereafter. In case the applicants are granted the benefit of regularisation w.e.f. 1.4.1973, all the consequential benefits shall be paid to them w.e.f. the ~~same~~ <sup>my</sup> date within a period of 2 months from the date of taking decision in this regard. There shall be no order as to costs.

  
MEMBER (J)

  
MEMBER (A)

S.M.