

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 443 of 1992
~~T. A. No.~~

DATE OF DECISION 21-4-1992

CI Rossy Applicant (s)

Mr P Sivan Pillai Advocate for the Applicant (s)

Versus

Union of India & 4 others Respondent (s)

Mrs Sumathi Dandapani Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. **SP MUKERJI**, VICE CHAIRMAN

The Hon'ble Mr. **AV HARIDASAN**, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?
3. Whether their Lordships wish to see the fair copy of the Judgement?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Mr AV Haridasan, Judicial Member)

The applicant who had rendered service as a Woman Casual Mazdoor under the respondents Railways from 3.4.1978 to 21.1.1983 filed O.A-1800/91 seeking re-engagement along with her juniors alleging that several casual mazdoors having less length of casual service than her have been re-engaged during February 1990 and August 1990 and that her representations for re-engagement were not considered and disposed of by the respondents.

The above O.A. was disposed of by this Tribunal with a direction

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Received
to day
28/4/92

to the second respondent therein to dispose of the representation of the applicant dated 9.1.1991, if necessary, in consultation with respondents 3-5 within a period of two months from the date of communication of the order. Pursuant to the above order, the second respondent has on 4.2.1992 issued the impugned order at Annexure-A5 informing the applicant that her name has been registered at Sl.No.1465 in the seniority list of retrenched project Casual Mazdoors of Trivandrum Division, that though Casual Mazdoors upto Sl.No. 1627 had been re-engaged, as such, re-engagement was only in respect of male Casual Mazdoors, her case for re-engagement would be considered against requirement of woman casual mazdoors that might arise subject to seniority of retrenched woman Casual Mazdoors. It is aggrieved by the above order that the applicant has filed this application. It is averred by the applicant that since the position of the applicant is at Sl. No.1465 in the seniority list of retrenched project Casual Mazdoors, the refusal on the part of the respondents to re-engage her while admittedly Casual Labourers with Sl.No. 1466 to 1627 have already been re-engaged amounts to violation of Articles 14, 15 and 16 of the Constitution. The applicant has therefore prayed that the respondents may be directed to

re-engage the applicant forthwith along with her juniors in the seniority list, to grant her credit of the number of working days as put in by her juniors on re-employment, and to pay her back wages for the days on which she was unlawfully kept out of employment.

2. The application was admitted on 30.3.1992 and the same was listed for completion of pleadings before the Registrar on 25.5.1992. As the applicant had prayed for an interim relief of re-engagement pending disposal of the O.A., the case was listed for hearing on interim relief on 13.4.1992. On 13.4.1992 at the request of the learned counsel for the respondents, the hearing on the question of interim relief was adjourned to 21.4.1992. The learned counsel for the respondents 1-5 have filed a statement today admitting that Casual Labourers with Sl.No.1466 to 1627 have been re-engaged, but explaining that as the nature of work for which these persons were re-engaged involved heavy manual labour and strenuous night patrolling, only male Casual Labourers were re-engaged.

3. We have heard the learned counsel on either side.

4. The averment in the application that the applicant has been denied employment while persons junior to her have been re-employed is admitted by the respondents in the impugned order at

Annexure-A5 as well as in the statement filed on their behalf by the learned counsel. We are of the view that on the basis of the admitted pleadings and documents it is necessary to issue an interim order directing immediate re-engagement of the applicant. While we were about to pronounce such an interim order, the learned counsel for the respondents submitted that by re-engagement in accordance with the seniority of the applicant, the grievance of the applicant would be completely redressed and in that view of the matter, the application can be finally disposed of with such a direction. The learned counsel for the applicant on the other hand submitted that the re-engagement of the applicant forthwith would redress the applicant's grievance only partly. xxx Because the question of the applicant's seniority on account of not getting credit to the number of days on which the juniors of the applicant had been provided work would still survive. However, the learned counsel submitted that the applicant is not pressing the claim for back wages. In the light of the above submissions by the learned counsel at the Bar, we are disposing of this application finally.

5. Since the applicant's position in the seniority list of ProjectCasual Labourers is 1465 and since Casual Labourers upto Sl.No.1627 had been admittedly re-engaged, we direct the



respondents to re-engage the applicant as Casual Mazdoor for whatever work is available in accordance with her seniority in the above said list. The applicant should be re-engaged forthwith, at any rate, within a week from the date of receipt of this order. The contention of the respondents that having regard to the nature of work, the applicant being a woman could not be re-engaged is rejected. If the applicant has got any grievance regarding her position in the seniority list, it is open for her to resort to appropriate remedy, in accordance with law.

6. There is no order as to costs.

7. For facilitating expeditious compliance, we direct that a copy of this order be given to the learned counsel for the parties by hand.


(AV HARIDASAN)
JUDICIAL MEMBER


(SP MUKERJI)
VICE CHAIRMAN

21-4-1992

trs