

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A No. 476 / 2008

Tuesday, this the 31st March, 2009.

CORAM

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

S.Muruganantham,
Ex-Casual Labourer,
Southern Railway,
Trivandrum Division,
Residing at: 114-A, Radhapuram Road,
Vallur.P.O.
Thirunelveli Dist -627 11.Applicant

(By Advocate Mr TC Govinadswamy)

v.

1. Union of India represented by
the General Manager,
Southern Railway,
Headquarters Office,
Park Town.P.O., Chennai-3.
2. The Divisional Personnel Officer,
Southern Railway,
Trivandrum Division,
Trivandrum-14.
3. The Divisional Railway Manager,
Southern Railway,
Trivandrum Division,
Trivandrum-14.Respondents

(By Advocate Mr Thomas Mathew Nellimoottil)

This application having been finally heard on 6.3.2009, the Tribunal on 31.3.2009 delivered the following:

ORDER

HON'BLE MR. GEORGE PARACKEN, JUDICIAL MEMBER

Applicant had earlier filed O.A.352/2006 seeking a direction to the



respondents for re-engagement and absorption. The said O.A was filed along with similar other O.As and they were disposed of by a common order dated 14.3.2007 in O.A.271/2006 and connected cases. The direction of this Tribunal was to re-engage those casual labourers retrenched without insisting on any age limit. However, the respondent-Railways have challenged that order before the Hon'ble High Court of Kerala in W.P.(C) No.21777/2007. Earlier the same issue was considered by the Hon'ble High Court in a common judgment dated 29.11.2007 in W.P.(C) No.16330/2006 and connected cases. While quashing the age limit prescribed as per RBE circular No.42/2001 dated 28.2.2001 of the Railway Board prescribing age limit for the retrenched casual labourers, the Hon'ble High Court held that the casual labourers who have completed 360 days of service have to be absorbed subject to other stipulations like medical fitness etc. Following the aforesaid judgment, the High Court has allowed the Writ Petition No. 29813/2007 (supra) also.

2. Thereafter, vide Annexure A-2 letter dated 7.7.2008, the respondents have directed the applicant and other similarly placed persons to produce the original casual labour cards, certificate of proof of date of birth, date of registration of births, certificate in proof of qualification, ration card and Voter's Identity Card. He reported before the authorities and submitted all requisite documents in original except the original casual labour card. According to him, he lost the original card and he had only the photostat copies. The respondents have, therefore, rejected his claim for absorption for non-production of the casual labour card in original.

3. According to the applicant, he is a retrenched casual labourer with 469 days of service and he has been assigned position in the seniority list at SI.No.2254. He has also submitted that the respondents have already verified



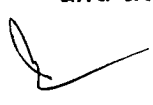
his LTI (Left Thumb Impression) with the LTI maintained by them and he has subjected to the medical examination in which he was found fit. He has, therefore, submitted that the refusal on the part of the respondents to consider him to absorb as regular employee is arbitrary, discriminatory and violation of the constitutional guarantees enshrined under Articles 14 and 16.

4. According to the respondents, the applicant was given sufficient opportunities to produce the original casual labour card for verification of his service particulars and genuineness of his claim for absorption. They have however, denied the contention of the applicant that he was sent for medical examination and found medically fit in the examination conducted on 14.7.2008.

5. In the rejoinder the applicant has submitted that he was under the bonafide belief that he was called for medical examination by Annexure A-2 letter whereas it was only a call letter for verification of service particulars.

6. We have heard Shri TC Govindaswamy, counsel for applicant and Shri Thomas Mathew Nellimoottil, counsel for respondents. It is seen that the applicant has not been considered for absorption for the reason that he has not produced the original casual labour cards. This issue has already been considered and settled by this Tribunal in its order in O.A.476/2005 as under:

"6. The apprehension of the respondents is that in the absence of original casual labour card impersonation would be very much possible and the anxiety of the respondents is that such impersonation should not be allowed. As the casual labour card contains the thumb impression the same could be compared with that of the holder of the card, if need be. While it is appreciated that care should be taken to ensure that there is no impersonation, at the same time, an aspect which cannot be lost sight of is that the casual labour card is required only for comparison of the details as furnished in the Register and for identification. Assuming that the details contained in the Register vary from the ones given in the Casual Labour Card, the same could well be by way of manipulation by the holder of the card and in that event, it is only the details as contained in the register that would be considered and acted upon. Again, in the instant case, the applicant has averred



that he was not given any such casual labour card at all and instead only a certificate was given to her by the Unit where he served. Though invariably casual labour card are issued to casual labourers, which alone would be the proof of they being engaged as casual labourers and in the absence of production of such card they would not be permitted to work as such, possibility is not ruled out that such card for any reason whatsoever (for eg as per the applicant's counsel, shortage of printed card) might not have been issued and in its place certificate could have been issued. For, issue of such certificate when casual labour card is issued is also not a normal practice. In any event, as the details of engagement of the applicant as casual labourer are available in the Register and as the same are as per the data furnished by the Unit office, the absence of casual labour card cannot be the reason to totally reject the claim of the applicant. As regards fear of impersonation, the respondents already having the Left Hand Thumb Impression in the register maintained by them, the same can easily be used for ascertaining the identity.

7. The applicant has also relied upon the following orders of this Tribunal, which squarely apply to the facts of this case:-

- (a) Order dated 8th July, 2006 in OA 377/04 - R. Ponnusamy vs UOI and Ors.
- (b) Order dated 26th Sep 2006 in OA 77/03 - T. Muraleedharan Pillai vs UOI and others.
- (c) Order dated 3rd Feb 05 in OA 379/04 - K. Raju vs UOI and Others.

8. In view of the above, the OA is allowed. Impugned order dated 20-03-2004 is quashed and set aside. It is declared that the applicant is entitled to be screened subject to his fulfilling the requirements on the basis of the details contained in the Live Casual Labour Register and in the event of his clearing the screening, he should be considered for absorption in accordance with the relevant rules and regulations of the subject.

9. The respondents are, therefore, directed to call the applicant for screening and take further action. If found fit, the applicant shall be entitled to the seniority in consonance with the seniority of her registration in the live casual register and his pay etc., will be notionally fixed from the date his junior has been appointed while actual pay would be admissible to the applicant from the date of regular absorption. This drill has to be performed within a period of three months from the date of communication of this order."

7. This case is squarely covered by the aforesaid order of this Tribunal. I, therefore, direct the respondents to consider the applicant for absorption on regular basis without insisting for the original casual labour card issued to him. However, since he has submitted that he had the photostat copy of the original card, he may produce the same to the respondents and they can verify the

particulars contained therein with reference to the information already available with their records. It is made clear that the applicant is required to be subject to other rules regarding medical examination etc. as applicable to similarly placed retrenched casual labourers who have been absorbed on regular basis. The respondents shall implement the aforesaid directions within a period of three months from the date of receipt of copy of this order. There shall be no order as to costs.



GEORGE PARACKEN
JUDICIAL MEMBER

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