

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 530/91, 585/91, 1016/91,
~~XXXXXX~~ 1070/91, 1072/91 &
1414/91.

DATE OF DECISION 31.7.1992.

Dakshin Railway Casual Labour Applicant (s)
Union & others.

Mr CP Menon, authorised agent ~~XXXXXXXXXXXXXXXXXXXX~~

Versus

Union of India (General Respondent (s)
Manager, Southern Rly) & another

Mr MC Cherian 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? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. To be circulated to all Benches of the Tribunal? *No*

JUDGEMENT

(Hon'ble Shri AV Haridasan, JM)

Since identical facts and question of law are involved, all the above 6 applications are considered and disposed of together.

2. The applicants No.2 in all these cases are retrenched casual labourers. The applicants pray that it may be declared that the second applicants are entitled to re-engagement, temporary status and absorption in regular service of the Railways with effect from various dates. Their claim is based on the two decisions of the Hon'ble Supreme Court

in Inderpal Yadav's case (1985 2 SCC 648) and in Dakshin Railway Employees' Union v. General Manager, Southern Railway and others (1987 1 SCC 671). It is averred in these applications that the first applicant, the Dakshin Railway Casual Labour Union (Regd No.96-Kerala), Edapally North, Kochi-24 represented by its General Secretary, Shri CP Menon, espousing the cause of the second applicants had made representations to the 2nd respondent on 20.3.87, 15.7.1987, 24.8.1988, 20.7.1989, 20.9.1989 and 25.12.1989 giving the list of casual labourers claiming re-engagement, temporary status and regular absorption in service based on the decision of the Hon'ble Supreme Court in Dakshin Railway Employees Union v. General Manager, Southern Railway and others cited above and with reference to the Ministry of Railways circular dated 4.3.1987 directing the casual labourers retrenched prior to January 1981 to make representations with all supporting material on or before 31.3.1987 for re-engagement.

3. The respondents have filed reply statements in all these applications contending that the representations alleged to have been sent on behalf of the casual labourers have not been received by them, that the documents produced in these applications at Annexure A1 to A6 were also produced by the 1st applicant in OA 576/90 also and that in OA 576/90 this Tribunal, after a careful consideration of the case did not allow the claim of the applicants that

the representation dated 20.3.1987 was sent on behalf of the casual labourers claiming temporary status and absorption in regular service and, therefore, held that the applicants did not make any representation on or before the crucial date as directed by the Hon'ble Supreme Court in the above-said judgement. The respondents further contend that these applications filed more than a decade after ^{alleged} the/termination of the services of the 2nd applicants are barred by limitation and hence, the applicants are not entitled to any relief.

4. The applicants also filed a rejoinder in OA 585/91, 1016/91 and 1414/91 stating that the 1st applicant had made a representation on behalf of the 2nd applicants and hundreds of similarly situated persons to the General Manager, Southern Railway, Madras; on 1.3.1987 with copies to the Chairman, Railway Board and Railway Manager, Palakkad and the Divisional Personnel Officer, Palakkad under certificates of posting (Appendix 2). But nothing has been produced to show that the addressees had actually received the representation alleged to have been sent on 1.3.1987.

5. We have heard the arguments of the learned counsel for the respondents and the first applicant and have also carefully gone through the pleadings and documents on record. The claim of the applicants is based on the judgement of the Hon'ble Supreme Court in Dakshin Railway Employees'

Union v. General Manager, SR and others (1987 1 SCC 677)

in which the Hon'ble Supreme Court had directed as follows:-

".....we, therefore, direct that all persons who desire to claim the benefits of the scheme on the ground that they had been retrenched before January 1, 1981 should submit their claim to the Administration before March 31, 1987. The Administration shall then consider the genuineness of the claims and process them accordingly."

In OA 576/90 filed by the 1st applicant on behalf of another group of casual labourers like those in these applications, a postal acknowledgement dated 16.7.1987 bearing No.1346 was produced by the 1st applicant to establish that the representation dated 15.7.1987 was received by the respondents in which it was mentioned that an earlier representation dated 20.3.1987 had been made (Annexure A1). The Annexure A1 representation alleged to have been sent by the 1st applicant was in compliance with the judgement of the Hon'ble Supreme Court cited above. In order to verify the genuineness of the postal acknowledgement dated 16.7.1987 bearing No.1346, this Tribunal had directed the 1st applicant to produce the original document and on production it was found that there was tampering and over-writing and that it did not relate to the representation dated 15.7.1987 at all. Therefore, this Bench had observed as follows:-

"On verification, we found that there was damage in the original acknowledgement card due to erasure and that "General Secretary, DRCLU" was typed in a different typewriter and that there was over-writing. We were, therefore, convinced that the acknowledgement card dated 16.7.1987 bearing number 1346 did not relate to the representation alleged to have been sent on

20.3.87 on behalf of the second applicant and others. Therefore, we are not convinced that the applicants have submitted the representation to the DRM/DPO, SR, Palakkad, putting forth the claim of the second applicant for re-engagement and regularisation before 31.3.1987. As per the decision of the Hon'ble Supreme Court in Dakshin Railway Employees Union vs. General Manager, Southern Railway (1987) 1 SC cases 677, the Railway Administration is bound to consider the claim of the persons who were employed as casual labourers prior to January 1, 1981 only if they had submitted their claims to the Administration before 31.3.1987. Therefore, there is absolutely no merit in the application."

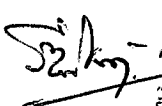
Since the case of the applicants is that the representation at Annexure A1 was sent by the 1st applicant on behalf of the casual labourers including the applicants in OA 576/90 and the applicants before us, the above observation in OA 576/90 applies fully to these cases also and, therefore, we are convinced that the applicants are not entitled to get re-engagement, temporary status or regularisation as claimed by them. The claim of the applicants in OA 585/91, 1016/91 and 1414/91 that the 1st applicant had made a representation to the General Manager, Southern Railway, Madras on behalf of the 2nd applicants and others with copies to the Chairman, Railway Board, Railway Manager and Divisional Personnel Officer, Palakkad, on 1.3.1987, cannot be accepted in the absence of any document to prove that the said representation was actually received by any of the addressees by the crucial date. Further, we are of the view that the story of having sent a representation on 1.3.1987 claiming re-engagement and regularisation of casual labourers

including the applicants has now been put forth as an after
thought in view of our finding in OA 576/90 that ^{the} postal
acknowledgement did not relate to the representation alleged
to have been sent on behalf of the casual labourers. The
contention of the respondents that these applications are
liable to be dismissed on the ground of limitation as they
are filed after more than four years from the date of the
alleged first representation dated 20.3.1987 is also valid.

6. In the result, finding no merit in these applications,
we dismiss all these 6 applications without any order as to
costs.


(AV HARIDASAN)
JUDICIAL MEMBER

31-7-92


(SP MUKERJI)
VICE CHAIRMAN

31.7.92

31.7.1992.

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