

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM BENCH

O. A. No. 582 1991.

DATE OF DECISION 8.2.93

C. Rajabalan Applicant (s)

Mr. P. Sivan Pillai Advocate for the Applicant (s)

Versus

The Divisional Personnel Officer, Southern Railway, Trivandrum-14 and others Respondent (s)

Smt. Sumathi Dandapani Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. N. DHARMADAN JUDICIAL MEMBER

The Hon'ble Mr. R. RANGARAJAN ADMINISTRATIVE 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

MR. N. DHARMADAN JUDICIAL MEMBER

This is a simple case of a casual employee which can be disposed of by the respondents on verification of proper records available with them.

2. According to the applicant, he was initially engaged as a casual labourer on 19.2.79 and allowed to work in the Construction Wing till 6.7.79 and again from 12.11.79 to 10.1.80 and from 27.5.80 to 5.12.80 and from 22.11.81 to 28.11.81 in the Open line. He has relied on Annexure A-2 list of casual mazdoors in the Open Line in the Trivandrum Division w.e.f. 1.1.81 and submitted that persons having at least a day's work to their credit were given re-engagement and included in the seniority list giving seniority on the

basis of total days of service. Hence, according to the applicant, he is also ~~eligible~~ to be included in the seniority list. Since this has not been done in spite of repeated representations. He has also produced representations, he has filed Annexure A-1 series of casual labour service card and filed this application under section 19 of the Administrative Tribunals Act with the following prayers:

- "a) to direct the respondents to include the applicant also in the list of casual labourers open line in Annexure A-2
- b) To direct the respondents to re-engage the applicant alongwith those engaged in Annexure A-2 with all attendant benefits from 12.10.88
- c) to issue such other orders or directions as deemed fit and necessary by this Hon'ble Tribunal in the facts and circumstances of this case."

3. The respondents have filed a detailed reply statement and submitted that if the applicant produces sufficient document in support of his case that he worked in the Open Lines, his case will be considered. Since this is an old case, it will be difficult to procure the relevant records. However, they stated that " if the relevant records are obtained, the respondents shall consider the applicant's name to be included in the Live Register of Open Line retrenched Casual Labourers."

4. Applicant has filed a rejoinder and reiterated the statement that he has worked in the Open Line/one week in the year 1981 and he is entitled to be included in the seniority list among persons who ~~had~~ similarly ~~worked~~

5. Having heard learned counsel for both parties, we are of the view that this application can be disposed of on the basis of available documents with appropriate direction. In the Casual Labour Card issued by the Department it is indicated that the applicant was engaged as Khalasi in the Open Line from 27.5.80 to 5.12.80. His LTI No. is ~~TVC~~ 102. Learned counsel for the applicant submitted that the original of the Service Cards are not available with the applicant.

His case can be verified with reference to the LTI Register kept by the Railways.

6. In the light of the undertaking given by the respondents in the reply statement that the applicant's case will be considered in case the records are obtained, we are of the view that this application can be disposed of particularly in view of Annexure A-3. Accordingly, we direct the first respondent to verify the LTI/Register ~~and xxx~~ in Annexure A-3 and the statement that the applicant has worked as a Khalasi. If on verification the claim of the applicant is found to be true, applicant's name may be included in the seniority list giving seniority on the basis of number of days of work. On the other hand, if it is not possible to verify the prior service of the applicant, his case will be decided by the first respondent as how and in which manner his seniority can be fixed in the seniority list by giving bottom seniority. This shall be done within a period of two months from the date of receipt of a copy of this judgment. Respondents may also consider grant of benefit of re-engagement to applicant, along with his juniors on the basis of his position in the seniority list kept in the Railways.

7. The application is accordingly disposed of with the above observation/direction.

8. There shall be no order as to costs.



R. RANGARAJAN
ADMINISTRATIVE MEMBER



N. DHARMADIK
JUDICIAL MEMBER
8.2.93

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