

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

ERNAKULAM

O.A. No. 84/87  
T.A. No.           

198

DATE OF DECISION 20-11-88

NK Phanebaulty & 2 others Petitioner,

Mr. K. Ramesh Kumar & 2 others Advocate for the Petitioner(s)

Versus

UOI. npt. by Gm, S/R, Madras  
& 2 others Respondents

Smt. Sumathi Renukumar Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. S. P. Mukarji, Vice Chairman / Mr. N. V. Krishnan, Member (A)

The Hon'ble Mr. N. Dharmadan / Mr. A. V. Haridasan, Member (J)

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. Whether it needs to be circulate to other Benches of the Tribunal? ✓

ME/Cc/RL

CENTRAL ADMINISTRATIVE TRIBUNAL: ERNAKULAM BENCH

Date of decision: 20.11.89

Present

Hon'ble Shri NV Krishnan, Administrative Member.  
and  
Hon'ble Shri N Dharmadan, Judicial Member

OA NO.84/87

1 NK Ahamedkutty  
2 T Khader  
3 Abdul Khader : Applicants

Vs.

1 Union of India rep. by  
the General Manager  
Southern Railway, Madras.  
2 Railway Board rep. by  
the Secretary,  
Rail Bhavan, New Delhi.  
3 Executive Engineer (Doubling)  
Southern Railway, Trivandrum. : Respondents

M/s K Ramakumar, CP Ravindranath &  
EM Joseph : Counsel of Applicants

Smt. Sumathi Dandapani : Counsel of Respondents

ORDER

Shri NV Krishnan, Administrative Member.

The three applicants in this case joined as Casual Labourers and in accordance with the provisions of the Indian Railway Establishment Manual they have been given temporary status based on the services rendered by them with effect from 1.1.1984 vide order dated at Annexure-A. Their grievance is that this order is not in accordance with the principles laid down by the Supreme Court in <sup>Inderpal Yadhav's case</sup> (1985 (2) SCC-648) and they claim that in accordance with those principles they are entitled to temporary status with effect from 1.1.81.

The applicants, therefore, <sup>have</sup> prayed that the Respondents be directed to give them the benefit of temporary status from 1.1.1981.

2 The Respondents have submitted in their reply that it is no doubt true that the the date of engagement of the second applicant is 16.4.73 but that they do not have particulars of the dates of engagements of the other two applicants as the service cards are with them. They also contend that the date of engagement is not <sup>the only</sup> relevant factor which determines <sup>the date from which</sup> the temporary status is given to such employees because if after such engagement, the labourer absent himself authorisedly for more than 20 days or unauthorisedly for more than 3 days, his previous service cannot be taken into account for regularisation.

3 It is admitted by the Respondents that in accordance with the decisions of the Hon'ble Supreme Court in Inderpal Yadav's case action is being taken to give temporary status to employees like the applicants. As far as the second applicant is concerned, the Respondents have further stated that on a verification of his service card it was found that ~~on xxx verification of his service~~  
~~xxxxxx that he left~~ service on 27.6.79 on his own accord and re-entered service on 22.12.79 and therefore, his services has been reckoned from 26.12.79 in terms of the Railway Board's letter No.E(NG)/2/75/107 dated 1.9.1977. On that basis the temporary status will

have to be given to him from 1.1.1983. It is, therefore, admitted that in case of the second applicant, he is entitled to temporary status from 1.1.1983 instead of 1.1.84 as mentioned in Annexure-A.


4 They also state that in regard to the other two applicants, sufficient particulars are not available to modify the date given in Annexure-A as the engagement cards are with the applicants only. In fact, the applicants have also stated in para-3 in their applications that they are ready to produce their service cards for verification of their services. Therefore, if a representation is made and the service cards are produced, the Respondents will reconsider the matter.


5 We have seen the records of the case and heard the counsel on either side. We are of the view that the applicants have rushed to the Tribunal without approaching the competent authorities with their grievance. The Respondents are agreeable to look into the matter and decide the date with effect from which temporary status may be given to them based on whatever proofs are made available by the applicants.

6 We are, therefore, satisfied that this application can be disposed of by giving a direction to the applicants to submit representations to the Respondents within a month from the receipt of this order stating their cases for grant of temporary status by enclosing either their service cards in original or legible photo-stat copies thereof.

The Respondents are directed to consider the representations and inform the applicants within 3 months of their receipt about the dates with effect from which they have been given temporary status.

7. It is accordingly ordered. The application is <sup>Q</sup> <sub>with</sub> disposed ~~of~~, the above directions and there will be no order as to costs.

  
20/11/89.  
(N. Dharmadan)  
Judicial Member  
20.11.89

  
20/11/89  
(V.N. Krishnan)  
Administrative Member  
20.11.89