

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

DATED MONDAY THE SEVENTH AUGUST ONE THOUSAND
NINE HUNDRED AND EIGHTY NINE

PRESENT

HON'BLE SHRI S. P. MUKERJI, VICE CHAIRMAN

&

HON'BLE SHRI N. DHARMADAN, JUDICIAL MEMBER

O.A. 96/87

K. Prabhakaran

Applicant

Vs.

1. Union of India represented by the General Manager, Southern Railway Madras
2. The Divisional Personnel Officer Southern Railway, Palghat and
3. The Permanent Way Inspector, Southern Railway, Shoranur

Respondents

M/s. K. Ramakumar,
C. P. Ravindranath and
E. M. Joseph

counsel for
the applicant

M/s. M. C. Cherian,
Saramma Cherian,
A K. Suresh,
T. A. Rajan,
Moly Jacob and
M. L. Tomy

Counsel for
the respondents

ORDER

Hon'ble Shri N. Dharmadan, Judicial Member

In this application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant seeks the following reliefs:

- (i) To declare that the denial of benefits due to the applicant by way of annual increment from 1974 onwards is clearly illegal and violative of all principles of natural justice; and
- (ii) To issue an immediate direction to the respondents to immediately grant all the benefits due to the applicant by way of annual increment from 1974 onwards.

2. The applicant was a Gangman in the Southern Railway. His service was terminated on 23.5.1974 for having participated in Nationwide General Strike of Railway employees. He filed O.P. 1274/75 before the High Court of Kerala. During the pendency of that original petition, he was reinstated in service with effect from 3.3.1975. Hence, he filed C. P. 95/83 before the Labour Court, Kozhikode for backwages. It was allowed directing the respondents to pay a sum of Rs. 2,278.30 as backwages to the applicant. The order of the Labour Court ~~is~~ has been challenged in the Original Petition No. 4370/86 and ~~it~~ is stayed by High Court of Kerala.

3. In the meantime, the applicant sent Annexure-A, notice to the Permanent Way Inspector, Southern Railway, for the relief of getting continuity of service with all attendant benefits consequent on the reinstatement in service including annual increment. ^{It is} It has not been disposed of so far. Hence, he has filed the present application.

4. In the counter affidavit filed on behalf of respondents, it was contended that after the termination of the applicant's service on 23.5.1973, he has been taken back in service as a fresh hand with effect from 3.3.1975. But the Railway Board as per order dated 6.4.1977, (R-1(a), instructed inter alia that all permanent and temporary Railway Servants, who were dismissed for removal from service in connection with Railway Strike in May, 1974, should be reinstated and given increments etc., treating the period while they were out of service also as duty. Paragraph 6 of the above order reads as follows:

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"Substitutes and casual labour, whose services were terminated at the time of the strike, would

be taken back in service forthwith. They will be restored to their original position in the seniority list held in each unit before the strike and they will be considered for placement in the select list for absorption in regular service on the basis of that seniority. They will receive wages only from the date of their re-engagement".

It was also contended that the casual labourers like the applicant are not entitled for benefits conferred on a regular Railway servant as per Ext. R-1(a) order. The High Court of Kerala in W.A. No. 344/80 considered scope of the above order and held that the casual labourers in the Railway Department are governed by Paragraph 6 of the above order and they are entitled to claim subsistence allowance from the date of their termination till the date on which they were taken from service. The Judgement is produced at Ext. R-1(d) along with counter affidavit.

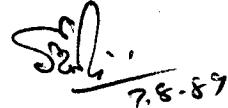
5. We have heard the arguments of the learned counsel appearing on behalf of the petitioner and also the respondents and perused the records available in the case. It is clear from the Ext. R-1(a) and Ext. R-1(d) judgement of the High Court of Kerala, that the casual labourers in the Railway whose services were terminated at the time of the strike should be taken back and ^{be} _{they were} ^{to} restored ⁱⁿ the original position in the seniority list held in each unit before the strike and that they will be considered for replacement in the select list for absorption in regular service on the basis of that seniority. We are inclined to take the same ^{view} _{in} this case.

6. The applicant's complaint is that he has not been given the benefit of continuity of service with all attendant benefits consequent on reinstatement in

service including annual increments. In the course of the argument, the learned counsel for the Railway assured that all benefits available to the applicant in the light of the provisions in the Railway Board's order/circular dated 6.4.1977, Ext. R-1(a), will be given to the applicant also. This assurance is recorded and the original petition is disposed of with the direction that the applicant may be given all service benefits for the broken period between the dates of termination and reinstatement as could be given to him as conceded by the learned counsel for the Railway, as expeditiously as possible, at any rate within a period of three months from the date of receipt of this judgement.

7. The application is disposed of with the above direction.
8. There is no order as to costs.


(N. Dharmadan) 7/8/89
Judicial Member
7.8.1989


S. P. Mukerji
Vice Chairman
7.8.1989

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