

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
Ernakulam Bench

OA 220/91 & MP 880/92, OA 847/91, OA 868/91, OA 992/91,
OA 1524/91, OA 1525/91, OA 76/91 & MP 881/92, OA 335/91,
OA 521/91, OA 564/91, OA 587/91, OA 825/91, OA 867/91,
OA 848/91, OA 926/91, OA 927/91, OA 928/91, OA 929/91,
OA 989/91, OA 990/91, OA 995/91, OA 996/91, OA 998/91,
OA 999/91, OA 1005/91, OA 1176/91, OA 1463/91, OA 1950/91,
OA 1951/91, OA 1952/91, OA 54/92, OA 1437/91, OA 1069/91,
OA 1191/91, OA 1194/91, OA 1526/91, OA 1306/91, OA 1320/91,
OA 1568/91, OA 1570/91, OA 1289/91, OA 1312/91, OA 1286/91,
OA 1571/91, OA 1572/91, and OA 1285/91.

Date of Decision: 13.7.1992.

Applicants

Dakshin Railway Casual Labour Union, Kochi & others.

Advocate for the applicants

Mr CP Menon, authorised agent.

Versus

Respondents

Union of India (General Manager, Southern Railway,
Madras) & another.

Advocate for the Respondents

Mr MC Cherian.

C O R A M:

The Hon'ble Mr SP Mukerji, Vice Chairman
and
The Hon'ble Mr AV Haridasan, Judicial Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yn*
2. To be referred to the Reporter or not? *m*
3. Whether their Lordships wish to see the fair copy of the Judgement? *m*
4. To be circulated to all Benches of the Tribunal? *m*

J U D G E M E N T

All the above 46 applications are considered and disposed of together as identical facts and questions of law are involved in these applications.

2. The Dakshin Railway Casual Labour Union (Regd.No. 96-Kerala), Edapally North, Kochi-24, represented by its General Secretary, Shri CP Menon, is the first applicant in all these applications and the other applicants are members of the first applicant's Union. All the applicants other than the first applicant, are retrenched casual labourers. They were retrenched on various dates for want of work. The prayer of the applicants is that it may be declared that the applicants, except the first applicant, are entitled to temporary status and to be absorbed in regular service of the Railways with effect from various dates. The applicants claim that they are entitled to re-engagement, grant of temporary status with retrospective effect and regular absorption in the service on the basis of the judgement of 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 1st applicant had made representations to the 2nd respondent on 20.3.1987, 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 two decisions of the Hon'ble

Supreme Court referred to earlier.

3. The respondents have filed reply statements resisting the applications. They contend that the representations alleged to have been sent on behalf of the casual labourers concerned have not been received by them and that these applications filed more than a decade after the termination of the services of the applicants (except the 1st applicant) are barred by limitation. They have further contended that the documents produced in these applications at Annexure A1 to A6 were also produced by the 1st applicant in OA 576/90 and that this Tribunal, after a careful consideration has held that the contention of the Union (the 1st applicant) that Annexure A1 representation dated 20.3.1987 was sent on behalf of the casual labourers cannot be accepted and so, the claim for grant of temporary status and absorption in service cannot be sustained. The respondents, therefore, contend that as the applicants had not made any representation with relevant materials of their service before 31.3.1987 as directed by the Hon'ble Supreme Court in the judgement in Dakshin Railway Employees' Union v. General Manager, SR and others (1987 1 SCC 677), they are not entitled to any relief.

4. 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 basis of the claim of the applicants for temporary status and regular absorption in service is 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 observed as follows:-

"Shri Krishnamurthy, learned counsel for the Railway Administration brings to our notice the difficulty which will be experienced by the Railway Administration if without any limitation persons claiming to have been employed as casual labour prior to January 1, 1981 keep coming forward to claim the benefits of the scheme. We understand the difficulty of the Administration and 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."

The applicants, except the first applicant, are casual labourers admittedly retrenched long prior to 1981. In the light of the above observation of the Hon'ble Supreme Court, the Ministry of Railways had issued a circular dated 4.3.1987 directing the casual labourers who were retrenched prior to January, 1981 to make representations on or before 31.3.1987. The case of the applicants is that the first applicant had made a representation on behalf of the retrenched casual labourers on 20.3.1987, a copy of which is produced at Annexure A1. However, the respondents contend that such a representation had not been received by them. The applicants did not produce any postal acknowledgement to show that such a representation was received

by the respondents. In OA 576/90 filed by the first 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). This Tribunal had in OA576/90 directed the 1st applicant to produce the original document in order to verify its genuineness and on production, it was found that there was tampering and over-writing and that it did not relate to the representation dated 15.7.87 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. Even otherwise, 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.

5. In the result, finding no merit in these applications, we dismiss all these 46 applications without any order as to costs.


13/7/92
(AV HARIDASAN)
JUDICIAL MEMBER


13.7.92.
(SP MUKERJI)
VICE CHAIRMAN

13.7.1992.

*ps