

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A. NO. 238/93

Tuesday, this the 1st day of February, 1994

SHRI N. DHARMADAN, MEMBER (J)
SHRI S.KASIPANDIAN, MEMBER(A)

A.Bhaskaran,
Perumbuzha Vila Veedu,
Karumandal-B, Paravur. .. Applicant

By Advocate Shri P.Sivan Pillai.

V/s

1. The Union of India through
The General Manager,
SR, Madras-3.
2. The Divnl. Personnel Officer,
SR, Trivandrum-14. .. Respondents

By Advocate Smt. Sumathi Dandapani.

ORDER

N.DHARMADAN

Applicant is a retrenched casual labourer belonging to S.C. community. His request for re-engagement was rejected by Annexure-A2 proceedings dated 25.3.92. The reason stated therein is as follows:-

"Shri M.Surendran whose case was cited by the Association was empanelled against the special intake in the year 1989. During this process Shri Bhaskaran had not applied for re-engagement and hence his name was not considered for empanelment. However, he shall be considered for empanelment against future sanction."

2. According to the applicant, the only objection for denying empanelment and regularisation to the applicant is that he had not applied for re-engagement pursuant to the notification.

3. Learned counsel Shri P.Sivan Pillai appearing on behalf of the applicant relied on two judgments of this Tribunal in O.A. 1171/92 (Dakshina Railway Employees Union through its Assistant General Secretary and others vs. Union of India represented by the General Manager and another). A copy of the judgment in OA 767/91 is produced as Annexure-A3. We have gone through the judgment. In that case, this Tribunal dealt with the right of re-engagement of a casual employee belonging to SC community under similar circumstances. The contentions raised in this case was also discussed by the Tribunal. They were rejected and we held as follows:-

"For the aforesaid reasons we declare that the applicants are entitled to be considered for appointment to all the shortfall vacancies reserved for SC in preference to any direct recruit and that they shall be considered for appointment along with any other SC retrenched casual labourers like them on the basis of their interse seniority and such appointment shall be granted to them within two months from the date of receipt of this order."

4. While admitting the application, we passed an interim order on 15.3.93 as follows:-

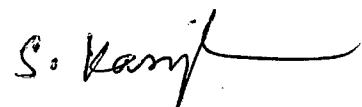
"... if any casual labour below him in the approved list of project casual labour is re-engaged, the applicant also should be provisionally re-engaged subject to the outcome of this application."

5. In the light of the aforesaid decision of this Tribunal and the interim order, the only question to be considered on the facts and circumstances of the case is whether applicant has a right to be empanelled and absorbed considering his past service.

6. Since we declared that the applicant has right for getting re-engagement notwithstanding his failure to apply for the same in the light of the decisions of this Tribunal in OA 767/91, we need only to close the application maintaining the interim order. Accordingly, we close the same in the light of the interim order and the above declaration.

7. It goes without saying that if the applicant is aggrieved by the denial of seniority over Shri Surendran, it is open to him to approach appropriate legal forum for the redressal of his grievance.

8. There will be no order as to costs.



(S.KASIPANDIAN)
MEMBER(A)



N. Dharmadan
1.2.94

(N.DHARMADAN)
MEMBER(J)

v/-