IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 284 & 295 of 1991
~~T. A. No.~~

DATE OF DECISION 28-5-1992

VK Ayyappan — Applicant (s) in OA-284/91
KK Suresh & CG Saseendran - Applicants in OA-295/91

Mr P Sivan Pillai — Advocate for the Applicant (s) in OA-284/91
Mr Asok M Cherian - Advocate for the applicants in OA-295/91

Versus

Union of India & 2 others — Respondent (s)

Mr MC Cherian & TA Rajan — Advocate for the Respondent (s) in both the cases

CORAM :

The Hon'ble Mr. NV KRISHNAN, ADMINISTRATIVE MEMBER

&

The Hon'ble Mr. AV HARIDASAN, JUDICIAL MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ? No
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 AV Haridasan, Judicial Member)

As similar facts, contentions and points of law are involved in both these applications, they are being heard and disposed of by this common order.

2. In both these applications, the applicants have prayed that the respective notices informing that their services would be terminated on 26.2.1991 may be quashed. The facts are like this. Shri VK Ayyappan, the applicant in OA-284/91 was initially engaged as a Casual Labour in the Railways on 4.9.1983 as a Blacksmith. Though he was granted temporary

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status on 23.1.1985 he was retrenched on 17.9.1985 for want of work. He was re-engaged on 6.5.1989 and retrenched on 30.9.1989. In the order at Annexure-A2 re-engaging him from 27.8.1990, it was mentioned that it was for a specific term upto 26.11.1990. However, his casual service was extended beyond 26.11.1990. While he was thus continuing, he was served with the notice dated 9.1.1991 at Annexure-A4 informing him that his services would be terminated on the afternoon of 26.2.1991. Though he made representations to the second respondent and to the Assistant Labour Commissioner, he did not find any response. Therefore he has filed OA-284/91 praying that the impugned order terminating his services on 26.2.1991 may be quashed.

3. The applicants 1 & 2 Shri KK Suresh and Shri CG Saseendran in OA-295/91 were initially engaged as Casual Labourer Blacksmith under the 1st respondent in May 1989 in connection with construction of railway line. Their services were terminated for want of work on 13.9.1989. They were re-engaged as Casual Labourer Blacksmith under the third respondent for a period of 3 months from 22.8.1990 to 26.11.1990. But they were continued beyond 26.11.1990 in service. Both the applicants were granted scale rate of pay. While the applicants were continuing as Casual Labourer Blacksmith, they were served with the impugned orders at Annexure-A1 and A1(a) dated 19.1.1991 informing them that as the work for which they have been engaged would be

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completed and as the sanction would also expired by 26.2.1991, their services would be terminated on the afternoon of 26.2.1991. The applicants have challenged these orders and claiming that they are entitled to continue without break in service as Casual Labourers so far as work is available under the first respondent. In both these applications, the applicants have referred to the Railway Board letter No.E(NG)II/84/CL/41 dated 11.1.1986 wherein it is mentioned that Casual Labourers employed for work within the geographical boundaries of a Division will form one unit and that the seniority list prepared Division-wise would be used for in subsequent engagement/re-engagement of project Casual Labourers. They have also stated that in the seniority list of project Casual Labourers in the category of Blacksmith Grade-II in Trivandrum Division under the first respondent, they are only 4 Blacksmith Grade-II and that as there is sufficient work, the decision of the respondents to terminate the services of the applicants is arbitrary and illegal. It has also been averred that the proposed termination of the services of the applicants is violative of paragraph 2501 of the Railway Establishment Manual.

4. The respondents in the reply statement have stated that the applicants who being the seniormost retrenched project casual labourers Blacksmith were re-engaged w.e.f. 26.11.1990

for completing certain urgent work and that on completion of the work and expiry of the sanction, the termination of their services w.e.f. 26.2.1991 became unavoidable. It has been made clear by the respondents that no Casual Labourer Blacksmith Grade-II having less length of service than the applicants have been retained in service and that the applicants therefore have no right to claim to be retained in service as the work for which they were engaged has been completed and as the sanction for their engagement is over. In the statement filed in OA-295/91, the respondents have mentioned that Shri KG Thankappan, the seniormost Project Casual Labour Blacksmith under the Construction Wing of Trivandrum had 7631 days of C.L.Service as on 1.1.1990 has been transferred to open line and as nobody with lesser length of service than the applicant is retained in service, the claim of the applicant for quashing the impugned orders of termination of their services is devoid of any merit.

5. We have heard the learned counsel for the parties and have also gone through the pleadings and the documents produced.

6. The applicants have no case that after terminating their services any person with lesser length of service as Casual Labourer Blacksmith Grade-II have been retained in service. There is nothing on record to show that work is still available to continue the engagement of the applicants. As the respondents have engaged the applicants as long as work was available, their action in terminating the casual

engagement of the applicants for want of work cannot be faulted. We therefore did not find any merit in this application.

7. In the result, the applications OA-284 and 295 of 1991 are dismissed without any order as to costs.

28/5/92

(AV HARIDASAN)
JUDICIAL MEMBER

28/5/92

(NV KRISHNAN)
ADMVE. MEMBER

28-5-1992

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