

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH**

O. A. No. 322 of 1990
~~XXXXXX~~

DATE OF DECISION 18.11.1991

S. Alagamuthu and 5 others Applicant (s)

Mr. V. B. Unniraj Advocate for the Applicant (s)

Versus

General Manager, Southern Railway, Madras and 5 others Respondent (s)

Smt. Sumati Dandapani Advocate for the Respondent (s)
(for R.1-4 & 6)

CORAM:

The Hon'ble Mr.S.P.Mukerji - Vice Chairman
and

The Hon'ble Mr. A.V. Haridasan - Judicial Member

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

JUDGEMENT

(Hon'ble Mr.S.P.Mukerji, Vice Chairman)

In this application dated 11.4.90 filed under Section 19 of the Administrative Tribunals Act, the six Scheduled Caste applicants who have been working as project casual labourers under the Southern Railway have challenged the impugned panel dated 19.12.89 at Annexure-E, of Scheduled Caste/Scheduled Tribe candidates for filling up shortfalls in Group 'D' reserved categories in the Railways. The applicants' names do not figure in that list. They have also prayed that the respondents be directed to appoint them in Group 'D' post in the Trivandrum Division.

2. The brief facts of the case are as follows. Having been engaged as project casual labourers on various dates between 4.5.73 and 30.6.80 when their services were terminated

they filed a Writ Petition before the Hon'ble High Court of Kerala in 1981 challenging the termination of their service and claiming regularisation. The Writ Petition was disposed of on 3.3.85 by the High Court of Kerala directing the respondents to confer the benefits of "reentertainment or absorption in service as also empanelment for regular appointment....." It was also directed that special consideration to be given to Scheduled Castes/ Scheduled Tribes in the matter of retention in service should also be kept in view.

3. The respondents, however, in spite of individual representations did not reinstate them but retained in service persons who joined later than the applicants. The applicants along with others moved the Tribunal in O.A.144/87 which was disposed of by the order dated 7.9.89 directing the applicants to make a representation for conferment of temporary status in accordance with the Supreme Court's direction in Inderpal Yadav's case and to finalise the Seniority List of casual labourers after giving an opportunity to the applicants. Thereafter the respondents were to assign notional dates of reengagement to the applicants therein on the basis of dates of engagement of their immediate juniors, with all consequential benefits. According to the applicants on the basis of that Judgment, the 4th respondent published an integrated Seniority List of casual labourers as on 1.4.85. On 21.4.89 when the Divisional Personnel Officer, Trivandrum published ^{andhra} inviting applications from Scheduled Caste/Scheduled Tribe candidates for Class IV posts of Gangman, Khalasi, Sweeper-cum-Porter, the applicants before us submitted their application in the prescribed form. They were called for interview on 22.10.89. After

the interview, a list of selected candidates was published by the impugned order at Annexure-E wherein the applicants were not included but others who were not having any previous service were included. One of such candidates ✓ ^{so} _{as} included is the 5th respondent. The applicants have alleged that the interview was merely an 'eyewash' and empanelment of persons without any previous service is illegal.

4. In the counter affidavit the respondents 1-4 & 6 have stated that in accordance with the directions of the Hon'ble Supreme Court, a Seniority List of project casual labourers who have been on employment at any time from 1.1.81 onwards was to be prepared and those who had completed 360 days of continuous employment were to be treated as on temporary status. The decision was to be implemented in a phased manner. Opportunity was given to those project casual labourers whose services were terminated before 1.1.81 also to seek reengagement through Seniority List, for which a separate Seniority List was to be prepared. The respondents have stated that under the directions of the Tribunal in O.A.144/87 except the first applicant all other 5 applicants submitted the representations. Of them the names of first, second and sixth have been included in the Seniority List of project casual labourers who have been had employment at any time from 1.1.81 onwards. The third, fourth and fifth applicants were retrenched before 1.1.81 and therefore their names were not included in the Seniority List. These three applicants having submitted representations before 31.3.87 to include their names in the Seniority List of pre-1981 project casual labourers ^{and} _{but} in compliance with the directions of the Tribunal in O.A.144/87 their names

also have been registered along with other pre-1981 project casual labourers. Since all the applicants have not completed the required service of 5 years as on 1.1.81 they could not be granted temporary status from 1.1.81. Notifications for open market recruitment for filling up the shortfall of Scheduled Caste/Scheduled Tribe candidates in Group 'D' categories was issued on 21.4.89 to all Employment Exchanges and supervisory officials. Minimum educational qualification was fixed as literacy and age limits between 18 and 33 years. The upper age limit was relaxable in case of casual labourers who joined before attaining the age of 33 years, to the extent of their casual labour ^{period} ~~period~~ of service, broken or continuous. The last date for receipt of application was fixed as 10.6.89 which was subsequently extended to 4.8.89. The selection had to be conducted on merit. A preliminary screening was done. The first applicant appeared in the interview on 22.9.89 but could not produce the original casual labour cards bearing the signature of supervisory officials. He also could not secure qualifying marks in the selection. He was also found to be totally illiterate therefore, he was not empanelled. The second applicant did not produce any certificate in proof of his casual labour service and was not called for interview. The third applicant also was not interviewed for the same reason. The application of the 4th applicant was not received. The fifth and Sixth applicants also were not called for interview as they did not produce any proof of their previous casual service. The respondents have denied that all the six applicants were called for interview. Only those casual labourers who produced certificate for their casual labour service were selected. So far as the first applicant

is concerned, ^{the} engagement order for the period from 2.3.89 to 29.4.89 was sent to him but there was no response from his side. The 6th applicant did not produce any certificate of belonging to Scheduled Caste/Scheduled Tribe Community and he was not considered. The first and sixth applicants, however, have been asked to send casual labour service cards and community certificates. The names of third, fourth and 5th applicants will be considered for reengagement in their turn.

5. In the rejoinder the applicants have stated that persons who were not included in the Seniority List of project casual labourers have been engaged by the respondents. They have denied that the first applicant is ~~an~~ illiterate as also the allegation that some of the applicants had not produced proof of their casual labour service. They insisted that they were called for interview.

6. We have heard the arguments of the learned counsel for both the parties and gone through the documents carefully. The main contention of the respondents is that even though the applicants were included in the Seniority List some of them were not called for interview as they had not produce the casual service cards or proof of their belonging to ^a Scheduled Caste/Scheduled Tribe Community. The interview letter, a copy of which has been submitted by the applicants themselves at Annexure-D, shows that they were required to attend the interview along with various certificates concerning educational qualification, community, casual labour cards etc. There is nothing to show that there is anything ~~false~~ ^a in the averments of the respondents that those applicants who did not produce the casual labour cards were not interviewed. No malafide against the respondents has also

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been averred. The respondents have specifically indicated that no person junior to the applicants has been appointed. However, we feel that in the interest of justice, the applicants should be given another chance to produce the various certificates and service cards for consideration for regular appointment to Group 'D' posts on the basis of the interview for which they had been called.

7. In the facts and circumstances we dispose of this application with the direction to the respondents 1-4 & 6 to consider the six applicants for selection to the Group 'D' posts in Trivandrum Division on the basis of the interview letter dated 11.10.89 at Annexure-D.

[The applicants are therefore, directed to appear before Respondent No.6 (Divisional Personnel Officer, Southern Railway, Trivandrum) along with all the necessary papers and certificates within a period of one month from the date of communication of this order and Respondent No.6 is directed to consider them for inclusion in the panel at Annexure-E at appropriate places based on their eligibility and seniority. Action on the above lines should be completed within a period of three months from the date of communication of this order. There will be no order as to costs.]

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18.11.91
(A.V.HARIDASAN)
JUDICIAL MEMBER

S. P. Mukerji
18.11.91
(S.P. MUKERJI)
VICE CHAIRMAN

18.11.91

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

R.A 46/92 in

O. A. No.
T. A. No.

322/90

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DATE OF DECISION 29.5.1992

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General Manager, Southern Railway, Applicant (s)
Madras and five others.

Smt. Sumathi Dandapani Advocate for the Applicant (s)

Versus

S. Alagamuthu & five others. Respondent (s)

Mr. V. B. Unniraj Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. S.P. MUKERJI, VICE CHAIRMAN

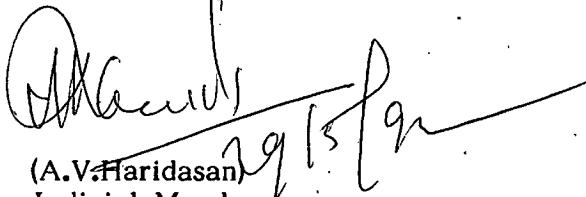
The Hon'ble Mr. A.V. HARIDASAN, JUDICIAL MEMBER

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?
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JUDGEMENT

(Hon'ble Shri S.P. Mukerji, Vice Chairman)

We have studied the R.A. In the R.A. no error apparent on face of record has been pointed out. The R.A. questions the wisdom of the Tribunal in granting the relief of giving another chance to appear for interview along with all necessary documents. This cannot be challenged in a R.A. Accordingly, the R.A. is dismissed ~~by circulation~~.


(A.V. Haridasan)

Judicial Member


S.P. Mukerji
29.5.92

(S.P. Mukerji)
Vice Chairman

n.j.j