

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O. A. No. 90/91, 330/91, 332/91,
~~XXXXXX~~ 334/91 & 336/91.

DATE OF DECISION 15.6.1992

Dakshin Railway Labour Union Applicant (s)
& another.

Shri C.P. Menon, authorised agent Advocate for the Applicant (s)

Versus

General Manager, SR, Madras & Respondent (s)
others.

Shri M.C. Cherian 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?
4. To be circulated to all Benches of the Tribunal?

JUDGEMENT

(Hon'ble Shri A.V. Haridasan, Judicial Member)

As identical facts and questions of law are involved in all these five cases, they are being considered and disposed of by this common order.

2. The first applicant in all these applications is the Dakshin Railway Labour Union (Regd. No.96-Kerala), Edappally North, Cochin-24 represented by its General Secretary, Shri C.P. Menon. The second applicant in each of these cases is a member of the first applicant's union. The prayer in O.A.90/91 is that it may be declared that

the second applicant is entitled to temporary status as on 1.1.1984 and to be absorbed in regular service of Railways expeditiously. The prayer in O.A.330/91 is that as the 2nd applicant had completed 878 days of casual work, it may be declared that she is entitled to temporary status as on 1.1.86 and for absorption in regular service expeditiously. The prayer in O.A.332/91 is that as the 2nd applicant had completed 1302 days of casual work, it may be declared that she is entitled to temporary status with effect from 1.1.86 and for absorption in regular service. The ^{prayer} ~~prior~~ in O.A. 334/91 is that as the 2nd applicant had completed 469 days of casual work it may be declared that he is entitled for temporary status as on 1.1.86 and for absorption in service expeditiously. The ^{prayer} ~~prior~~ in O.A.336/91 is that since the 2nd applicant had put in a casual service of 917 days, it may be declared that he is entitled for temporary status as on 1.1.86 and for absorption in regular service expeditiously. The applicants No.2 in all these applications are retrenched casual labourers. The 2nd applicant^s in O.A.90/91 and O.A.332/91 were retrenched in 1976, the second applicants in O.A.330/91 in 1978, O.A.334/91 in 1977 and 336/91 in 1968. All of them were retrenched for want of work. They have, in these applications, claimed 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 & others (1987 1 SCC 677). It is averred in all these applications that on behalf of the casual labourers represented by the 1st applicant's union, 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 and regularisation and that respondents have turned a deaf ear to these representations. The applicants claim that on the basis of the two decisions of the Hon'ble Supreme Court referred to earlier, they are entitled to be granted temporary status and to be absorbed in the service of the Railways.

3. The respondents in all these applications have filed reply statements contending that the applications filed more than ten to fifteen years after the termination of the services of the 2nd applicants in these cases are barred by limitation and that the representations alleged to have been sent on behalf of the casual labourers concerned have not been received by the respondents. They have also contended that the same documents at Annexure A1 to A6 produced in all these cases, were also produced by the 1st applicant in O.A.576/90 and this Tribunal after elaborate consideration held that the contentions of the union (the 1st applicant) that Annexure A1 dated 20.3.1987 was sent on behalf of the casual labourers cannot be accepted and that the claim for grant of temporary status and absorption in service cannot be sustained. It is also argued that on the basis of the decision in O.A.576/90

other similar applications, O.A.81/91, 83/91, 221/91 and 997/91 were dismissed. The respondents contend that as these applicants, as directed in the judgement of the Hon'ble Supreme Court in Dakshin Railway Employees Union v. General Manager, SR & others (1987 1 SCC 677) and also in the circular of the Ministry of Railways dated 4.3.1987 No.E(NG)II/78-CN.II, had not made representations with relevant materials of their service before 31st March, 1987, the applicants are not entitled to any relief.

4. We have heard the arguments of the ^{applicants and the} ~~counsel for the respon-~~ dents and have also carefully perused the pleadings and documents on record. The applicants No.2 are casual labourers admittedly retrenched long prior to the year ~~xxx~~ 1981. In Dakshin Railway Employees Union v. General Manager, SR & others (1987 1 SCC 677) 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."

In the light of the above observations of the Hon'ble Supreme Court, the Ministry of Railways had issued a circular dated 4.3.1987 marked as Annexure R1 in O.A.330/91 directing that casual labourers who were retrenched prior to January 1981 should make their representations on or before 31.3.1987.

A notification was also issued specifying the details to be furnished and also making it clear that representations received after 31.3.1987 would not be entertained. The case of the applicants is that they had made their first representation on 20.3.1987, a copy of the said representation is produced in all these cases as Annexure A1. But the respondents contend that such a representation had not been received from the first applicant. The applicants did not produce any postal acknowledgement to show that their representation was received by the respondents. In O.A.576/90 filed by the 1st applicant espousing the cause of another ^{group of} casual labourer like the 2nd applicants in these cases, the first applicant had produced the same documents which are also produced in these cases and marked as Annexure A1 to A6. A postal acknowledgement dated 16.7.1987 bearing No.1346 was produced in that case to establish that the representation dated 15.7.1987 was received by the respondents wherein ~~xxxxxxx~~ it was mentioned ~~in the representation dated 15.7.1987~~ that an earlier representation dated 20.3.1987 had been made and as that has not been ~~contested~~ ^{it was argued that} in any reply ^{it should be deemed that the} representation dated 20.3.1987 also had been received. In order to verify the genuineness of the claim that the acknowledgement dated 16.7.87 related to the representation at Annexure A1 this Tribunal directed the 1st applicant in that case to produce the original acknowledgement. On production of that acknowledgement, it was found that there was tampering and that it did not relate to the representation dated 15.7.87.

at all. Therefore, this Bench ~~has~~ observed as follows:-

"On verification, we found that there was a 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 16.7.87 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."

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 O.A.576/90 and these applicants. Therefore, the observation in O.A.576/90 about the representation dated 20.3.87 applies ^{fully} to these cases also. We are, therefore, convinced that the applicants No.2 in these cases ~~did~~ not make their claim for re-engagement before 31.3.87 and that therefore, they are not entitled to get re-engagement, temporary status or regularisation as claimed by them. Even assuming that the applicants had made a representation on 20.3.87, since these applications have been filed more than 18 months from that date, these applications are barred by limitation. On that ground also, the applications are liable to be dismissed. No ground for condonation of delay has been made out.

5. In the light of the facts and circumstances discussed above, we find no merit in these applications and, therefore, we dismiss all these five applications without any order as to costs.

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15/6/92

(A.V. HARIDASAN)
JUDICIAL MEMBER

[Handwritten signature]
15-6-92

(S.P. MUKERJI)
VICE CHAIRMAN

15.6.92

CERTIFIED TRUE COPY

Date

*ps

Deputy Registrar