

CENTRAL ADMINISTRATIVE TRIBUNAL, ERNAKULAM BENCH

O.A.No.344/92

Friday, this the 5th day of November, 1993

HON'BLE SHRI N DHARMADAN, JUDICIAL MEMBER
AND

HON'BLE SHRI S KASIPANDIAN, ADMINISTRATIVE MEMBER

1. R Abdul Majeed Khan,
Casual Labour
PWI/O/Punalur,
Charavelaputhen Veedu,
Chalacode Ward, Punalur
CL/PWI/O/Puu, Naidu St.
Purali P Shencotta. Tg.
2. M Muthukumar,
CL/PWI/O/Puu, Naidu St.
Purali PO, Shencotta.
3. TK Venugopalan Nair,
CL/PWI/Puu,
Charuvila Puthen Veedu,
Near Railway Station, Punalur.
4. G Babu,
CL/PWI/O/Puu,
Chandrathil Puthen Veedu,
Myloru PO, Kottakara.
5. A Joney,
CL/PWI/Puu, Kaldthe
Poyil Pakana PO
via Mulaverna-691 503.
6. V Sasidharan,
Casual Labour,
O/o the Permanent Way Inspector,
Southern Railway, Punalur.
7. G Ravi,
Casual Labour
C/o Office of the PWI,
Southern Railway, Punalur.
8. N Sundrasan,
CL/PWI/Puu, 16 Akkar,
Puthen Veedu, Thakkatharu PO
Pattazhi, Quilon.
9. A Gopi
CL/PWI/O/Puu, Kadil Veedu
Kara PO, 691 557.
10. M Ramachandran,
CL/PWI/O/Puu, Paria
Samia Puram, Harinayakapuram
PO Veena Sreemani Sankarank.C
11. B Rathnakaran Pillai,
CL/PW/O/Puu
Parappathayath Veedu
Chakkuvarakkal PO
Kunnikode, Quilon.

- Applicants

12. G Mohanan Pillai,
CL/PWI/O/PUU
Manju Bhavan,
Kura PO-691 557.
13. J Alex,
CL/PWI/O/PUU,
Kalloor Konath Thengam Vella Veedu,
Ananeeswaram PO, Quilon.
14. D George, .
Casual Labour,
C/o Office of PWI,
Southern Railway, Punalur.
15. D Krishnankutty Nair,
CL/PWI/O/PUU,
Melevila Veedu,
Neeleswaram PO
Kottarakkara, Kollam.
16. S Viswanatha Pillai,
CL/PWI/O/PUU, Alathu Veedu,
Neeleswaram PO,
Kottarakkara, Kollam.
17. B Baby,
C/PWI/O/PUU,
Poovanthum Vela Thazhathethil Veedu,
Neeleswaram PO
Kottarakkara.
18. A Balachandran Pillai,
C/PWI/O/PUU, Baby Mandiram,
Decent Jn. Mukthala, Quilon.
19. P Raman Pillai,
CL/PWI/O/PUU, Sreevilasam,
Puthari veedu, Ottakkal,
Quilon.
20. C Vijayamohanan Nair,
CL/PWI/O/PUU,
Sureshmandiram,
Ottakkal PO, Tenmalai.
21. V Radhakrishnan,
CL/PWI/O/PUU,
Rajasree Vilasam,
Thenmala-Quilon.
22. A Abdulkhalam,
CL/PWI/O/PUU,
Sajeena Manzil,
Kunnicode- Quilon.
23. T Thomas Varghese,
CL/PWI/O/PUU,
Charuvila Puthen Veedu,
Block No.6, Ottakkal-691 308.
24. B Darmaseelan,
CL/PWI/PUU,
Kothipil Ampalathunkal,
Ezhukone-Kollam.
25. G Joy,
CL/PWI/O/PUU,
Parathu Veedu Ottakkal,
Urukunnu PO.

26. O George, CL/PWI/O/PUU,
Parangamvila, Chakkuvarakkal PO
Kunnicode- Quilon.
27. K Divakaran Pillai,
CL/PWI/O/PUU,
Dinesh Mandiram,
Kura PO-691 557. - Applicants

By Advocate Shri P Sivan Pillai

Vs.

1. Union of India through,
General Manager,
Southern Railway, Madras-3.
2. The Divisional Personnel Officer,
Southern Railway, Madurai-10.
3. The Divisional Railway Manager(Works),
Madurai-10.
4. The Chief Permanent Way Inspector,
Southern Railway, Punalur. - Respondents

By Advocate Shri PA Mohamed

O_R_D_E_R

N DHARMADAN, JUDICIAL MEMBER

The applicants are Casual Mazdoors who have attained temporary status. The grievance presented for consideration is that the applicants were not included in Annexure-A7 list of live register of open line casual mazdoors, inspite of the fact that a good number of their juniors having lesser days of service were included in that list and were given regular work under the Railway.

2. According to the applicants, they were engaged as casual labourers under the Permanent Way Inspector, Tenmalai and their names were included in the muster rolls kept by the PWI, Punalur, the 4th respondent. They have given their service particulars in para-1 of the O.A. Annexure-A1 series is the service cards issued to the applicants. When the respondents have prepared Annexure-A7 list dated 8.10.1991,

it was noticed that the applicants were denied the benefit of inclusion in the live register of casual mazdoors so as to enable them to get regular work. They reliably understood that persons who have lesser number of days of work have been included in that list ignoring the better claim of the applicants. The applicants have filed representations for their inclusion in the live register Annexure-A7. Considering the request, a committee was constituted and the Railway directed the committee to investigate the claims of the applicants. However, Assistant Personnel Officer, made a random check and submitted Annexure-A8 report on 28.11.1991. The full text of the report is extracted below:

"In terms of the above instructions, the live register of CLs maintained by CPWI/PUU was verified by me and APO/MDU Mr Ramamurthy with the CL cards, muster sheets and pay bill register.

Out of the 111 CLs found in the Live Register maintained by the PWI, the records were verified in respect of the following 5 Nos. as a test check and found to be correct based on the original musters and Pay Bill Register and LTI Register.

Item No. of Live Register	LTI No.	Name of CL	No. of days
1.	109	A Gopi(Applicant-9)	382½
2.	126	M Sundaresan(Applicant No.8)	381
3.	173	G Mohanan Pillai (Applicant No.12)	290
4.	125	G Ravi(Applicant-7)	278
5.	131	A Balachandran Pillai(Applicant18)	236

All the 111 cases of CLs found in this Live Register have already been verified completed and found correct by Mr P Subramanian, the then Sr.Clerk, PWI/O/SVV and now PI/MDU, who has been deputed for the purpose. The original muster sheets and pay bills register in respect of these CLs are still available in the PWI office/PUU. As such, the particulars found in PWI's Live Register are found to be genuine. As only one Mr C Sasidharan, LTI No.83 finds a place in

the live register published by DPO/MDU vide No.U/P. 407/III/TS dated 8.10.91, as Item No.78, the remaining 110 CLs found in the PWI's Register may be included in the Division's Live Register, being genuine cases, as already pointed out in CPWI/PUU letter(D.O)No.PUU/8E dated 5.11.91 please."

3. The applicants further submitted that Annexure-A10 is the list of 111 casual labourers including the applicants referred to in Annexure-A8. Out of these, 26 persons referred to in the rejoinder were included by the respondents in Annexure-A7 live register. According to the learned counsel for applicants, if these 26 labourers in Annexure-A10 can be included by the Railway in the live register, which is produced as Annexure-A7(Annexure-A9), there is no legal justification in denying the same benefits to the applicants as well. He has also relied on a further communication at Annexure-A12 dated 8.7.1992 sent by the Senior Divisional Personnel Officer to Shri P Krishnan in connection with OA-291/92. Para-2 of that letter is extracted below:

"In the context of the judgement dated 1.8.1985 in OP No.7336/1985, the matter was once examined and a reply was also given to you in terms of this office letter No.J/P.OP 7336/85 dated 5.5.1987. However, the position has been carefully examined in pursuance of the order dt.26.3.1992 in OA No.291/92 and you are hereby informed that by the grant of temporary status you will not be ipso facto entitled to continuous employment. It has also to be mentioned that you were not a Project Casual Labourer to come within the ambit of the Hon'ble Supreme Court's decision in SCC No.648/1985(2). It is also to be indicated that the benefit of temporary status for the period you have worked in Railways has also been duly extended to you then and there. However, you could not continued to be engaged from 21.3.1983, as there was no sanction for such continued engagement of casual labourers. As a matter of fact, you had only 339 days of casual labourer service when your services were sought to be discharged in accordance with the provisions of the extant rules. You are further advised that none junior to you, with lesser length of service has been so far considered by the Divn. for screening/ empanelment or for any sort of re-engagement."

4. The Senior Divisional Personnel Officer has clearly stated in the above letter that Shri Krishnan, who is similarly situated like the applicant, is not a project casual labourer. He is casual labourer in the open line. Relying on this statement, the learned counsel for the applicants submitted that all the applicants who worked earlier on the Punalur Division under the PWI can only to be categorised as persons worked in the open line eligible to be included in Annexure-A7.

5. Learned counsel for the respondents brought to our notice para-10 of the reply statement and submitted that there are two live registers kept by the Railway. Applicants belong to the category of project casual labourers(live register of open line and live register of project open line). The applicants belong to the project and their names would not find a place in the open line register. Their names can only be shown separately in the integrated seniority list of project labourers and their claim for inclusion in the live register of open line casual labourers cannot be granted at this stage.

6. We have heard the learned counsel and carefully perused the records. The respondent have no case that in Annexure-A8, the recommendations, are not acceptable and do not reflect the real position. It is an admitted fact that an Assistant Personnel Officer submitted the report Annexure-A8 after making a random check on the basis of

the contentions raised by the applicants and persons similarly situated like them. Five persons referred to therein were included in the live register Annexure-A7. Hence he has found that the cases of casual mazdoors referred to in Annexure-A10 are genuine cases and they are entitled to be included in the live register of the open line casual labourers. The statements in the report is further supported by the argument of the learned counsel for applicants that 26 persons similarly situated like the applicants, who were included in Annexure-A10, were included in Annexure-A7 live register. Some of the casual labourers were included in the register are junior to the applicants. Out of these 111 casual labourers included in the Annexure-A10, ²⁶ twenty six persons have already been given the benefit of inclusion in the live register. If that can be done ^{for 4} giving all benefits as open line live register casual mazdoors, there is no legal justification in denying the same benefits to the applicants also.

7. As indicated above, Annexure-A12 strengthens the case of applicants because the Senior Divisional Personnel Officer who is conversant with the facts of the case has clearly stated that a person like the applicant is not a project casual labour. It is settled proposition that a casual labour, ^{who is} ~~also~~ has been granted temporary status should be eligible to get the benefit of continuous service, if work is available. Such a casual labour would get continuous work only after inclusion in the live register in the open line.

Several persons who were included in Annexure-A10 were given the benefit of inclusion in Annexure-A7 also. It appears that the denial of the same benefits to the applicants is discriminatory and violative of the provisions of Articles 14 and 16 of the Constitution.

8. It ~~was~~^{is} also brought to our notice that one C Sasi-dharan, LTI No.83 was included as Sl.No.78 in Annexure-A7. So also the case of M.Ramachandran, who is included as Sl.No. 54~~8~~₄ in Annexure-A7(Annexure-A9). Though the 10th applicant was included in Annexure-A9, he has not been given work. The learned counsel for the applicants submitted that this is because he is figuring as applicant in this O.A.

9. In the light of the aforesaid discussion, we are of the view that the applicants have a legal right to be considered, in the light of the recommendations of the Senior DPO in Annexure-A8, for inclusion of their names in Annexure-A7.

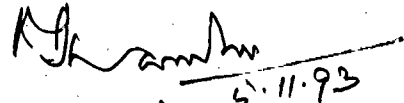
10. Having regard to the facts and circumstances of the case, we are inclined to allow the application directing the respondents to implement the recommendations of the Senior DPO as contained in Annexure-A8 and grant relief to the applicants in accordance with law. We do so. We make it clear that the ^{by this} recommendations contained in Annexure-A8, the applicants names are to be included in Annexure-A7 with reference to their date of service. It goes without saying that they are entitled to get work after the inclusion in

that live register at Annexure-A7 along with juniors and such other benefits as may be eligible to them, in accordance with law.

11. The application is allowed as above. No costs.



(S KASIPANDIAN)
ADMINISTRATIVE MEMBER



(N DHARMADAN)
JUDICIAL MEMBER

5-11-1993

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