

CENTRAL ADMINISTRATIVE TRIBUNAL
ERNAKULAM BENCH

O.A.No.365/04

Wednesday this the 2nd day of February 2005

C O R A M :

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

Y.Devasigamony,
S/o.Yesuvadiyan,
Ex-Casual Labourer,
Southern Railway/Trivandrum Division,
Trivandrum.

Applicant

(By Advocate Mr.T.C.Govindaswamy)

Versus

1. Union of India represented by
the General Manager, Southern Railway,
Headquarters Office, Park Town P.O.,
Chennai - 3.
2. The Chief Personnel Officer,
Southern Railway, Headquarters Office,
Park Town P.O., Chennai - 3.
3. The Divisional Railway Manager,
Southern Railway, Trivandrum Division,
Trivandrum - 14.
4. The Divisional Personnel Officer,
Southern Railway, Trivandrum Division,
Trivandrum - 14.

Respondents

(By Advocate Mrs.Sumathi Dandapani)

This application having been heard on 2nd February 2005
the Tribunal on the same day delivered the following :

O R D E R

HON'BLE MR. A.V.HARIDASAN, VICE CHAIRMAN

The applicant claimed to have been engaged as a Casual Labour in Trivandrum Division of the Southern Railway from 20.11.1978 and was retrenched on 1.8.1981 as is seen in Annexure A-1 Casual Labour Card. In 1998 the applicant received a letter showing his name as D.Deivanayakam and calling upon him to report before the Divisional Authority with Casual Labour Card and other documents for the purpose of re-engagement. Although the applicant complied with the said requirements, while the juniors

of the applicant were re-engaged, he was served with Annexure A-2 letter calling upon him to explain the discrepancy in name inasmuch as in the Live Register against Serial No.1721 the name of D.Deivanayakam is recorded, in the Casual Labour Card produced by the applicant the name is shown as E.Devasigamony and in the School Certificate it is shown as Y.Devasigamani. The applicant submitted Annexure A-3 reply stating that his father's name is Yesuvadian, that in the Service Card his name was shown as E.Devasigamany that in the live register his name was wrongly shown as Deivanayakam and that the discrepancy may be condoned. He also obtained a certificate from Tahsildar stating that E.Devasigamany and Y.Devasigamony is one and the same and forwarded it to the authority. In spite of this the applicant has not been considered for re-engagement although he had produced a Sworn Affidavit also. Therefore, the applicant has filed this application for a declaration that the inaction on the part of the respondents to include the name of the applicant at the appropriate place in the list of retrenched casual labourers of the Civil Engineering Department of Southern Railway, Trivandrum Division is arbitrary, discriminatory and unconstitutional and for a direction to the respondents to consider the applicant for re-engagement and absorption in preference to persons with lesser length of service than the applicant and to grant him the consequential benefits of absorption and fixation of pay etc. on par with the persons with lesser length of service.

2. Respondents contend that while in the Casual Labour Card the name is shown as E.Devasigamany, the entry in the Live Register corresponding to the number of days and date of


retrenchment at Serial No.1721 it is shown as D.Deivanayakam and in the School Certificate produced by the applicant it is shown as Y.Devasigamony that there is no clear proof of the applicant's engagement and that as the LTI register is not available it is not possible to cross-check and verify the claim of the applicant. The respondents contend that under these circumstances the applicant is not entitled to the reliefs sought.

3. I have carefully gone through the pleadings and have heard the learned counsel on either side. The respondents have no case that Annexure A-1 Casual Labour Card is not a genuine one nor is there any case that any other claimant has come for re-engagement against Serial No.1721 in the Live Register of the Casual Labourers. The claim of the applicant for re-engagement is resisted on the ground that there is a discrepancy in the initial of the applicant in the Casual Labour Card and in the School Certificate and there is a discrepancy in name in the corresponding entry in the Live Register. It is a fact not disputed that although the name D.Deivanayakam was written in the letter calling upon the applicant to report it was received in the address of the applicant. The applicant has satisfactorily explained the discrepancy in the School Certificate and in the Casual Labour Card regarding initial. He stated that as his father's name is Yesuvadian and that while recording in the Casual Labour Card it was wrongly entered as E.Devasigamany instead of Y.Devasigamony. Since the applicant admittedly had in possession the original Annexure A-1 Casual Labour Card and had reported before the Divisional Authorities with the same on receipt of the communication calling upon him to do so, I am of

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the considered view that the discrepancy regarding initial in the Casual Labour Card and School Certificate should not have been taken as a ground for refusing re-engagement and absorption and while the Tahsildar's Certificate explained that E.Devasigamany and Y.Devasigamony is one and the same person. Since the respondents have no case that any person by name Deivanayakam has put forth a claim for re-engagement on the basis of an entry at Serial No.1721 in the Live Register of Casual Labourers and the number of days of service put in by Devasigamany as is evident from Annexure A-1 and date of retrenchment is same when compared to details of the person mentioned at Serial No.1721 in the Live Register of the Casual Labourers, and as there is no serious dispute in identity of the applicant, I am of the considered view that the discrepancy in the name occurring in the Live Register must be a mistake committed while preparing the Live Register. Therefore, in the interest of justice, I uphold the claim of the applicant that he is the Casual Labour mentioned at Serial No.1721 in the Live Register. However, to be on the safer side I give the respondents an opportunity to verify the LTI of the applicant available in Annexure A-1 Casual Labour Card with the LTI Register which must be in the possession of the Divisional Authority. I am not prepared to accept the contention in the reply statement that the LTI Register of the relevant period has not been preserved because the authorities are bound to retain it till the casual labourers in the Register are absorbed in a phased manner.

4. In the result, in the light of what is stated above the application is disposed of directing the 3rd ^{respondent} to verify the LTI impression available in the Annexure A-1 Casual Labour Card with



the LTI Register and if it is found that the LTI tallies, consider the applicant for re-engagement/absorption on par with persons below him in the Live Register and also to compare the thumb impression of the applicant with the available LTI in the Live Register. If on such verification the applicant is re-engaged/absorbed, he shall be given the consequential benefits of fixation of pay on par with the persons concerned. If for any reason the respondent fails to trace out and get the LTI register, I direct that, the respondents should accept the claim of the applicant and give him all the benefits and entitlements due as Serial Number 1721 of the Live Register of Casual Labourers. The above directions shall be complied with and necessary order issued within a period of six months from the date of receipt of a copy of this order.

(Dated the 2nd day of February 2005)



A.V. HARIDASAN
VICE CHAIRMAN

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