

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

CAME AT NAGPUR
199

O.A. NO:

T.A. NO:

326/87

DATE OF DECISION 19.11.1991

Shri Sripatrao Bajirao Warke

Petitioner

Shri Girish Chaube

Advocate for the Petitioners

Versus

Union of India & Ors.

Respondent

Shri P.N.Chanduskar.

Advocate for the Respondent(s)

CORAM:

The Hon'ble Mr. Justice U.C.Srivastava, Vice-Chairman,

The Hon'ble Mr. M.Y.Priolkar, Member (A)

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. Whether it needs to be circulated to other Benches of the Tribunal ?


(U.C. SRIVASTAVA)
VICE-CHAIRMAN.

mbm*

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, BOMBAY,
CAMP AT NAGPUR.

Tr. Application No.326/87.

Shri Sripatrao Bajirao Warke. ... Applicant.

V/s.

Union of India & Ors. ... Respondents.

Coram: Hon'ble Shri Justice U.C.Srivastava, Vice-Chairman,
Hon'ble Shri M.Y.Priolkar, Member(A).

Appearances:-

Applicant by Shri Girish Chaubey,
Respondents by Shri P.N.Chandurkar.

Oral Judgment:-

(Per Shri Justice U.C.Srivastava,Vice-Chairman) Dt.19.11.91.

The petitioners working in the Catering Department of Nagpur Division under the Central Railway as Stall-keepers, Bearers, Cleaners and are confirmed employees of Railways have alleged that they have been classified as being continuous workers in accordance with the provisions of Section 71-C of the Indian Railways Act and Railway servant Hours of Employment Rules, 1961. On the basis of classification they are supposed to work for 54 hours per week. The roster meant for the petitioners provides weekly rest and one hour lunch break in a day and therefore, they are required to work for 48 hours per week that means 8 hours a day. The said roster of 8 hours a day is also adopted by other divisions of the Central Railway. Thus they have been made to work for 10 hours a day without any break by R-2 and which has been continuously brought to the notice by means of representation and ultimately in the month of April, 1984 they were informed that ~~the~~ consequent upon the change of the pattern of working of the catering and commissioning of new base kitchen, the old roster was no longer in force with the introduction of new base kitchen. The petitioners' work is classified as essential intermittent.

Feeling aggrieved against the same this classification which ~~was~~ according to them is discriminatory, arbitrary, they approached the Nagpur Bench of the High Court of Judicature Bombay in the year 1984, which is transferred to this Tribunal in the year 1987.

2. The respondents have resisted the claim of the applicant and stated that services were not required by the applicants, as a matter of fact they have denied that the applicants were classified as continuous and from the very inception the department classified as "essentially and intermittant"/not continuous as alleged ~~by the applicants~~ and the catering started functioning from 1.4.1956 and not from 1980 as alleged by the applicant. Section 71-C of the Indian Railways Act stipulates the limitation of working hours in respect of staff classified as continuous, essentially intermittant and intensive. The applicants have been classified as essentially intermittant staff working at Nagpur being not a way side station are prescribed 60 hours duty a week and the applicants classified as 'EI' workers 60 hours duty are prescribed to them in a week with one weekly rest. These hours for 'EI' staff are prescribed as per the Railway Board's letter dt. 13.6.1974, a copy of which ^{has} ~~is~~ also been placed on the record. Every division of the Railway is a different unit and duty prescribed to the staff are according to the needs within the scope of the rules. There may therefore, be 8 hours duty on any other division. But that does not mean that of course, the same can be claimed by the applicants in view of the appointments made by them. It has been further stated that 17 duty rosters, were issued on 15.11.1980 and in that duty roster there were 32 cleaners,

...3.

7 Stall Keepers and 14 bearers in whose favour duty rosters were issued, that indicate that out of that 10 cleaners were continuous, 7 stall keepers as 'EI' and 14 bearers as 'EI' and the applicants have been classified as 'EI' from the beginning and prior to 1.8.1974 the staff were classified as 'EI' were prescribed 72 hours duty in a week and the Railway Labour Tribunal 1969 has recommended the following hours in a week to 'EI' workers, 48+24 additional hours a week to Gateman 'C' and 48+12 additional hours of work a week to rest of 'EI' workers. The recommendation of the Railway Tribunal was accepted ~~from the beginning~~ and the same had been adhered to and they were required to work 12 hours from the beginning of catering department till 31.3.1975 and from 31.1.1975 they have been prescribed 60 hours a week i.e. 10 hours duty as recommended by Railway Labour Tribunal and accepted by the Railways w.e.f. 1.8.1974 for 'EI' workers. In view of the facts stated above the contention raised by the applicants falls to the ground. The applicants have not filed any rejoinder affidavit. However, they have stated that the award of the Railway Labour Tribunal has been over ruled or some award has come into existence. Accordingly, we do not find any merit, the factual position is also not justified the claim of the applicant. There is no merit in the application. It is accordingly dismissed. No order as to costs.

(M.Y. PRIOLKAR)
MEMBER (A)

(U.C. SRIVASTAVA)
VICE-CHAIRMAN.

B.S.M.