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BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH

O.A.541/89 & O.A.542/89

Barunkumar Ram,
residing in
R.S.Mukhalal Chawl,
Haji Malang Road,
Humbaba, Dongri,
Patlipul, Kalyan,
Dist. Thane.

.. Applicant in
O.A.541/89

Jawaharam Ramjiram
residing at
Mankhurd, Ambedkar Nagar,
Sonapur,
Bombay - 400 088.

.. Applicant in
O.A.542/89

vs.

1. Union of India
through
The General Manager,
Central Railway,
Bombay V.T.
Bombay.
2. Divisional Railway Manager,
Central Railway,
Bombay V.T.,
Bombay.

.. Respondents
in both the
cases.

Coram: Hon'ble Shri Justice U.C.Srivastava,
Vice-Chairman

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

Appearances:

1. Mr.M.S.Ramamurthy
Advocate for the
Applicants.
2. Mr.P.R.Pai
Advocate for the
Respondents.

ORAL JUDGMENT: Date: 18-7-1991
(Per U.C.Srivastava, Vice-Chairman)

As the cause of action in this two applications are same they are being disposed of together. Both the applicants were employed in the Central Railway at Trombay under the Carriage and Wagon Superintendent in the year 1986 for a period of five months. Thereafter their services were discontinued. Again the recruitment took place in June, 1988. In 1988 they claimed to have attained temporary status after having worked for more than

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120 days but were not taken on the ground that the higher authorities had advised not to take persons like the applicants who had ITI qualifications and only non matriculate would be taken into service. The National Railway Mazdoor Union also wrote a letter in this behalf stating that the applicants have attained temporary status and they may be taken in service yet they were not taken in service.

2. Respondents have stated that the earlier appointments of the applicants were for a particular period and the applicants cannot claim the benefit of the same. In the year 1988 the sanction against W.T. engagement of casual labour was received from competent authority with a condition that only those who have worked prior to 1-3-1981 should only be engaged after due verification of service cards. As per the instructions, the candidates like the fresh faces I.T.I. etc. could not be entertained.

3. The applicants have opposed the statement of the respondents in their rejoinder and stated that casual labourers who worked prior to 1981 should later on have been engaged. While discontinuing the services of the applicants, 9 other employees who were employed like the applicants at the same place but not who are not ITI certificate holders have been engaged again against the posts created in 1988, without reference to the fact whether they were engaged prior to 1.3.1981 or otherwise. It has been further stated that Respondents did not employ the casual labour who were working prior to 1.3.1981 at Trombay against the newly created 27 posts in the year 1988. They have brought in employees who were working as casual labour in permanent way inspectors gangs and engaged them against the posts sanctioned in the year 1988. This policy that

has been followed in Trombay so far has been to absorb the casual labour employed intermittently in regular service on occurrence of vacancies. In Kurla Car shed and Kalyan Car Shed ITI casual labour who had worked for 90 days have been absorbed in regular service but the applicants have been discriminated.

4. Undoubtedly the applicants have attained temporary status and they are entitled to certain ~~privileges~~ preference in the matter of appointment. But the persons in the year 1981 are waiting. Applicants cannot claim priority over the same. Obviously the applicants' names should also be included in the list of the persons who are to get employment in their turn. But in case persons who are similarly placed like the applicants have been engaged either in Trombay or elsewhere as stated by the applicants there appears to be no reason why the case of the applicants shall also not be considered for appointment.

5. Accordingly we direct that the names of the applicants also should be included in the list of persons who are waiting for the appointment. In case higher qualified persons like ITI/Diploma holders are required applicants may be considered for the same and should not be rejected on the ground that they came later on. Even otherwise as no fixed policy has been followed and similar others who were retrenched along with the applicants have been taken in service the respondents shall also consider the claim of the applicants for re-appointment. This should be done within four months from the date of receipt of a copy of this order. With this observation this application is disposed of with no order as to costs.