

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO.1156/96.

Wednesday, this the 22nd day of December, 1999.

Coram: Hon'ble Shri Justice Ashok Agarwal, Chairman,
Hon'ble Shri D.S.Baweja, Member(A)

Purushottam Nathu Yeole,
Residing At & Post - Asoda,
Tal. & Dist. - Jalgaon.
(By Advocate Shri D.V.Gangal)

...Applicant.

Vs.

1. Union of India through the
General Manager,
Central Railway, CST,
Mumbai - 400 001.

2. The Divisional Manager,
Central Railway,
Bhusawal.
(By Advocate Shri V.S.Masurkar)

...Respondents.

: O R D E R (ORAL) :

(Per Shri Justice Ashok Agarwal, Chairman)

Though the present OA contains various prayers, Shri D.V.Gangal the learned counsel appearing on behalf of the applicant has restricted his claim only to the extent that the claim of the applicant for regularisation should be made in the light of the observations contained in the Judgment of this Tribunal dt. 28.1.1999 in OA Nos. 517/98 and 830/98. The applicant had earlier filed an OA in this Tribunal viz. OA No.99/89, wherein it has inter-alia been directed as follows:

" The Canteen has been employing many Casual Labourers and we expect that without giving any other cause of action to the applicant and without creating any other complication and controversy the respondents will employ him as a Casual Labour expeditiously, say within a period of two months."

It is undisputed that in compliance with the aforesaid order, the

...2.

ORIGINAL APPLICATION NO. 1156/98.

Wednesday, this the 22nd day of December, 1999.

Coram: Hon'ble Shri Justice Ashok Agarwal, Chairman,
Hon'ble Shri D.S. Baweja, Member(A)

Purusottam Nathu Ysole,
Residing At & Post - Asoda,
Tal. & Dist. - Jalgaon.
(By Advocate Shri D.V. Gangal)

vs.

1. Union of India through the
General Manager,
Central Railway, CST,
Mumbai - 400 001.

2. The Divisional Manager,
Central Railway,
Bhusawal.
(By Advocate Shri V.S. Masurkar)

: O R D E R (ORAL) :

(Per Shri Justice Ashok Agarwal, Chairman)

Though the present OA contains various prayers, Shri D.V. Gangal the learned counsel appearing on behalf of the applicant has restricted his claim only to the extent that the claim of the applicant for regularisation should be made in the light of the observations contained in the judgment of this Tribunal dt. 28.1.1999 in OA Nos. 517/98 and 830/98. The applicant had earlier filed an OA in this Tribunal viz. OA No. 99/89, wherein it has inter-alia been directed as follows:

"The Canteen has been employing many Casual Labourers and we expect that without giving any other cause of action to the applicant and without creating any other complication and controversy the respondents will employ him as a Casual Labour expeditiously, say within a period of two months."

It is required that in compliance with the aforesaid order, the

applicant was employed as a Casual Labour vide an order passed on 22.1.1992, The applicant reported for duty on 28.1.1992, His services were thereafter terminated on 3.7.1992. The respondents had prepared a seniority/waiting list of Casual Labours - MRCLs of Commercial department dt. 20.8.1993. The applicant's name figures at Sl.No.40 of the said list.

2. One Shri Sanjay Kirtikar and 29 Ors. filed OA Nos.517/98 and 830/98 claiming regularisation. Applicants in the aforesaid OA figured in the aforesaid seniority/waiting list. However, applicant was not one of those who had filed the aforesaid OAs. By an order passed on 28.1.1999 this is what has been directed:

"In the result, both the OAs are allowed as follows:

1. The respondents should consider all the applicants in both the OAs for regularisation as per scheme of the Railways after checking their names in the live register and taking into consideration their seniority and then suitability and eligibility for the purpose of screening as per rules. As and when the vacancies are to be filled up for Group 'D' posts in the Commercial Department, the names of the applicants after screening be considered and in case they are in surplus, for that department, then their names may be considered alongwith others for other departments.
2. In the first instance, the respondents may first undertake the work of screening for Commercial Department and complete it within four months from the date of receipt of copy of this order. Then the administration may take up the work of filling up vacancies as and when there are vacancies and they decide to fill them.
3. In the circumstances, there will be no orders as to costs."



In view of the above Judgment, even though the applicant is not a party to the aforesaid OAs being OA Nos.517/98 and 830/98, the respondents will be bound to comply with the aforesaid directions even as regards the applicant. Merely because the applicant was not joined as a party the same will not justify respondents to

applicant was employed as a Casual Labour vide an order passed on 22.1.1992. The applicant reported for duty on 28.1.1992. His services were thereafter terminated on 3.7.1992. The respondents had prepared a seniority/waiting list of casual labourers - Males of Commercial department dt. 20.6.1992. The applicant's name figures at Sl.No 40 of the said list.

3. One Shri Sanjay Kirtikar and 29 O/s. filed OA Nos. 517/98 and 830/98 claiming regularisation. Applicants in the aforesaid OA figured in the aforesaid seniority/waiting list. However, applicant was not one of those who had filed the aforesaid OAs. By an order passed on 28.1.1999 this is what has been directed:

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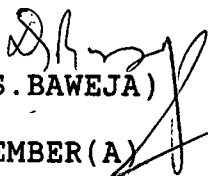
1. The respondents should consider all the applicants in both the OAs for regularisation as per scheme of the Railways after checking their names in the five registers and taking into consideration their seniority and then suitability and eligibility for the purpose of screening as per rules. As and when the vacancies are to be filled up for Group 'D' posts in the Commercial Department, the names of the applicants after screening be considered and in case they are in surplus, for that department, then their names may be considered alongwith others for other departments.

2. In the first instance, the respondents may first undertake the work of screening for Commercial Department and complete it within four months from the date of receipt of copy of this order. Then the administration may take up the work of filling up vacancies as and when there are vacancies and they decide to fill them.

3. In the circumstances, there will be no orders as to costs."

In view of the above judgment, even though the applicant is not a party to the aforesaid OAs being OA Nos. 517/98 and 830/98, the respondents will be bound to comply with the aforesaid directions even as regards the applicant. Merely because the applicant was not joined as a party the same will not justify respondents to

regularise those who are junior to him in the aforesaid list. In the circumstances, we direct that respondents will abide by the aforesaid directions even in the case of the applicant. The present OA is accordingly allowed in the aforesaid terms. The applicant may also be screened, if his juniors have already been screened within a period of three months from to day. In the circumstances of the case, there will be no order as to costs. In view of the disposal of the present OA, M.P. 364/99 is also disposed of also with no order as to costs.


(D.S. BAWEJA)
MEMBER (A)


(ASHOK AGARWAL)
CHAIRMAN.

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(ASHOK AGARWAL)

CHAIRMAN.

(D. S. BAWELA)

MEMBER (A)

B.