

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 899 of 1999.

Dated this Thursday the 19th day of April, 2001.

CORAM : Hon'ble Shri B. N. Bahadur, Member (A).

1. Pune Railway Casual Labour Union,
having its office at
C/o. and through Nanda Kishore
Tukaram Thorat,
Residing at - Sanas Wadi,
Tal. Daund, Dist. Pune.
2. Raju Uttam Kamble,
(one of the affected person)
Residing at -
Ganesh Khind Road,
Chaphekar Nagar,
Pune - 411 016.

... Applicants.

(By Advocate Shri S. V. Marne).

VERSUS

1. The Union of India through
The General Manager,
Central Railway,
Mumbai C.S.T.,
Mumbai - 400 001.
2. The Divisional Railway
Manager,
Central Railway,
Mumbai Division,
Mumbai C.S.T.,
Mumbai - 400 001.
3. The Dy. Chief Engineer,
(Construction),
Central Railway,
Pune - 411 001.

(By Advocate Shri S. C. Dhavan)

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O R D E R

PER : Shri B. N. Bahadur, Member (A).

This is an application made by the Pune Railway Casual Labour Union through Shri Nand Kishore Tukaram Thorat and by a second Applicant, Shri Raju Uttam Kamble. The applicants are aggrieved that inspite of the notice issued by Divisional Office dated 15.07.1999^{B.N.B.} (Annexure A-1), their applications are not being accepted. Applicants seeking the relief from this Tribunal for a direction to the Respondents to accept the applications of all the Applicants and consider their cases for regularisation/screening/appointment as Group 'D' employees. Commitantly, the Applicants seek a declaration from the Tribunal that Applicants' names continue to be on the Live Register of Railway Administration, and the portion of the letter "which threatens that the names of casual labourers whose applications are not received before 19.08.1999 will be struck" be declared as illegal and arbitrary. Also, a declaration that the non-acceptance of application by Depot officials is illegal and contrary to law. The notice that is being impugned/challenged is ^{the aforesaid} letter addressed by Personnel Branch of Division office, Mumbai C.S.T. dated 15.07.1999 (copy at Annexure A-1).

2. The facts of the case, as brought forth by the Applicants, are that all the casual labourers who approached their respective

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offices to submit their applications were not allowed to present their applications and the applications were not accepted. The reason given was that they were not aware of any such notification issued by Respondent No. 2 and hence the application could not be accepted.

3. Further in the O.A. it is stated that the application is filed on behalf of 36 Applicants, as detailed in Annexure-III. The contention is taken that Applicants are on the Live Register of Casual Labourers of Central Railway, and that they have a right to be considered in accordance with rules/orders on the subject, which rules it is averred, are appended at Annexure A-4 colly. Pleading that they should have been regularised even earlier, Applicants aver that the notification dated 15.07.1999 is issued as per latest instructions of the Railway Board, and that Depot officials were duty bound to submit their applications to the second Respondent, who, in turn, was required to consider the applicants for appointment as Group 'D' employees. Applicants further aver that they being all casual labourers, either with or without temporary status, and being on the Live Register as per rules, were therefore required to be regularised in preference to the claims of outsiders/open market candidates.

4. The Respondents have filed a reply statement, first taking the point that Applicant No. 1 is not authorised to file

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an application, ^{not AS} being ~~not~~ a recognized Union. It is also contended that the application suffers from the legal defect of misjoinder of parties, as Applicants are not working under D.R.M., Mumbai. The main point then taken is that the impugned letter dated 15.7.1999 was issued in respect of Casual Labourers working on open line. This point is further expounded by the Respondents, who state that Respondent No. 2 had issued this letter to the Engineering Department of open line, only to make an assessment with regard to the number of eligible casual labourers for the purpose of record. It was neither an employment notice, nor a notice for re-engagement, nor was ^{it AS} meant for screening. The said letter, therefore, does not grant any right to the Applicants, or any other employee.

5. The Respondents challenge the statement made by the Applicant in para 4.2 of the application, and state that no details regarding the alleged Live Register are provided. The Respondents further state that there is a ban on recruitment and there are no vacancies to be filled up. Also there is no scheme at present for screening of Casual Labourers. Other allegations made are denied, and it is stated that "when there is a scheme for screening and regularisation, the same will be done in accordance with the overall seniority on the basis of satisfying the eligible and recruitment conditions."

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6. We have seen the papers in the case and have heard the Learned Counsel on both sides, namely - viz. Shri S. V. Marne for Shri D.V. Gangal for the Applicants and Shri S. C. Dhavan for the Respondents. Learned Counsel, Shri Marne, started by focusing my attention to the relief sought, and to the impugned documents at page 14 to 16 through which the information, as described above, has been called. He particularly focused on the fact that the communication is addressed to "All concerned, Mumbai Division, Engineering Branch", and that, since the Applicants were working on the construction side, it had to be construed that this communication also included them (applicants) as addressee. This point was stressed more than once, and the contention of the Respondents to the effect that the applications were invited only from those in the open line was strenuously counted by Learned Counsel, Shri Marne. Shri Marne further argued that the above stand of the Respondents was not correct. — Not only as per the language of the notice, but also with reference to para 2001 of Chapter 20 of volume-II of I.R.E.M.

6. Shri Marne made the point that the Live Register was common both to the Open Line as also to the Construction side, and that the applicants had all worked for a period over one year. There was no separate rule or separate seniority for open line



workers as against casual workers. He also sought to draw support from para 2006 of the I.R.E.M.

7. Arguing the case on behalf of the Respondents, the Learned Counsel, Shri S. C. Dhavan, first made the point that the impugned notification is only information-seeking, and not a notice for regularisation or for drawing up a seniority list, as could be clear from the sub-para 3. The second point he made was that the notification was only for Engineering Department of Open Line and this is distinct from the construction side. He strenuously made the point that "Engineering Department" did not automatically mean, or include, everyone working in the construction side, as alleged by the Applicants. Shri Dhavan further made the point that the notification was issued in pursuance of a letter from C.P.O., Mumbai, dated 18.05.1999, which letter was referred to at the top of the notification itself.

8. Shri Dhavan reiterated the point taken in the written statement of Respondents that the present Applicants can come up and make applications, etc. when notices are issued by the Construction Division. He also stated that the lists had also been given to the Construction Division, and as and when Construction Division takes action, applications can be routed through respective Depots.



9. Re-arguing the matter briefly, Shri Marne stated that no evidence had been produced regarding letters to construction line nor was a copy of the letter of C.P.O. dated 18.05.1999 produced by the Respondents. Shri Marne also stated that the casual labourer in Open Line and Construction side had a common seniority list, and hence calling for information only from Open Line is itself a wrong action, in this background.

10. Now, the matter seems to be in a short compass. Admittedly, the cause of action arises from the impugned notification dated 18.05.1999, through which information has been called. Now even if this is only the calling of information, as repeatedly stressed by Respondents, it is a process that has been started in the direction of regularisation, if and when possible, due to availability of further vacancies/lifting of ban orders or other conditions, as decided by the Railway Administration.

11. The grievance of the Applicant is that their applications were not accepted. Now, it is not the stand of the Railway Administration that Applicants are barred even from consideration when the time or situation allows it. It is only a narrow point that is being made that the impugned notification is only for workers in the Open Line. Now in this context, an important point has been made by the Learned Counsel, Shri Marne, to the effect that the seniority list of casual labourers in Construction, and Open Line is common and hence calling for application/information



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from one side is wrong. If this is indeed so, the applicants have some reason to feel agitated. But what is not understood is that even assuming that information has to be called, and is being called indeed, separately, from the two sides, it is not understood as to why such a fetish is being made. I make this comment, importantly, in the light of the statement of the Respondents made both in their written reply as well as during arguments to the effect that no discrimination is being made and that when information is called separately from those in the Construction side, the Applicants will be called upon to provide information. While on the one hand the above position is correct, it is also clear that it is not necessary at this juncture for this Tribunal to go into the relief sought to the effect that declaration be made that applicants' name be continued to be in the Live Register, or as to what should be done about their regularisation. Obviously, what is basically in dispute here is that a notification has been issued where only the information is being collected from the Open Line workers and not from the Construction workers.

12. I must also refer here to the support sought by Learned Counsel for Applicant through paragraph 2001 and 2006 of Volume-II of the I.R.E.M. I have gone through these provisions. Well and truly, there is no doubt that casual labour is to two types, namely - one on the Open Line and the other on Projects,

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as gleaned from para 2001. Para 2006, on the other hand, deals with absorption of Casual Labourers in regular vacancies and this is a matter that can come up only at the right time; at present the issue is in a very narrow compass regarding acceptance of application, giving details from labour like those in the position of the Applicants.

13. On a total consideration of the facts and circumstances of the case, it will be just and adequate on both sides to dispose of this matter by giving directions to the Railway Administration. Accordingly, Respondents in this case are hereby directed to consider the issue regarding calling for information from the Applicants and others, similarly situated, in accordance with the rules and orders of the Railway Board. A circular/notification, etc. in this regard may be issued, free from any doubts and ambiguities for the purpose of collection of information. Subsequent action will be taken by the Respondents (only) in accordance with the extant rules, and no directions are being given regarding such subsequent action. The above action regarding issue of notification, etc. shall be completed within a period of four months from the date of receipt of a copy of this order. No order as to costs.

B.N. Bahadur

19/4/01
(B.N. BAHADUR)
MEMBER (A).