

CENTRAL ADMINISTRATIVE TRIBUNAL  
MUMBAI BENCH

ORIGINAL APPLICATION NO.: 194 of 2001

Dated this Thursday, the 4th day of April, 2002.

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

Shri Ramesh Govind Ghodeswar  
Ex-Casual Labourer,  
Central Railway,  
Solapur.

Residing at -  
C/o. Laxmi Govind Ghodeswar,  
Laxmi Niwas,  
Indira Nagar,  
Post : Chandur (Rly),  
District : Amaravati.

Applicant

(By Advocate Shri D. V. Gangal for  
Shri S. V. Marne)

VERSUS

1. The Union of India through  
The General Manager,  
Central Railway,  
Headquarters Office,  
Mumbai C.S.T.  
Mumbai - 400 001.

2. The Divisional Railway Manager,  
Central Railway,  
Solapur Division,  
Solapur.

Respondents.

(By Advocate Shri S.C. Dhavan).

O R D E R (ORAL)

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

The Applicant in this case comes up to this Tribunal with the grievance that Respondents have illegally turned down the case of his regularisation in the Railways. It is stated by him that he has worked as Casual Labour between 01.03.1987 and 17.06.1987. (There is some mistake on dates in page 1 but above dates are now confirmed by the Learned Counsel for applicant

...2




during arguments). Also, that he worked again as Casual Labour between 13.04.1991 to 30.06.1991. The grievance of the applicant really is that he was not considered pursuant to the notification issued on 30.06.1999, inviting applications from Casual Labourers working in Solapur Division. The Applicant states that he was on the live register and applied for regularisation in pursuance of this notification (of 30.06.1999), but he has been informed by the impugned orders that, since he was holding a fake labour card, he could not be included in the list of Hot Season Watermen. Hence, this O.A.

2. The Applicant has elaborated on these facts further on in the O.A., and claims that he has put in more than 120 days in service and hence the right of being screened and regularised. The relevant orders of Railway Board are cited. The Applicant states that he did not have such a thing as 'Fake Casual Labour Card'. In fact, it was stated during argument that he had no card and denies all the allegations made in the impugned orders.

3. The Respondents have filed a Reply-Statement where the basic facts are recounted, and it is stated that the applicant was terminated in 1987, because of his having a fake labour card. It is further stated that it was for this reason that he was not being engaged in 1988 and 1989, but was indeed engaged in 1991, at S.S. Daund and that such engagement was procured by fraud and also gives no rights. The Written Statement of Respondents takes the point of limitation, delay and laches, it being argued that the grievance is of the year 1987/1991.

...3



4. I have heard the Learned Counsel on both sides and perused the records in the case. Learned Counsel, Shri D.V. Gangal, who appeared for the applicant, took me over the facts of the case, pointing out all the details, and made the point that since the applicant had completed 120 days of service he had the right to be regularised. He questioned the charge of fraud, etc. made by Respondents and stated that there was no order of termination produced, and that if the applicant had indeed been removed for fraud, it was questionable as to how he was again engaged in 1991. There was no finding of any Criminal Court or departmental authority regarding fraud, he asserted, and a mere statement cannot be depended upon.

5. Learned Counsel for Respondents, Shri S.C. Dhavan, relied on the Written Statement and the records produced on behalf of Respondents and specially focused on the facts and arguments taken in para 9 and 10 of the Written Statement, as briefly referred to above. Learned Counsel argued the matter with reference to limitation also and stated that even if it is assumed that the limitation does not come from 1987, the letters at pages 101 and 103 of the file, written by several Casual labourers including the applicant in both cases, went against the applicants. They had accepted the fact in these letters of fake card, and these letters being of March and April 1989, limitation would certainly start from here. Learned Counsel stated that many of the facts have been suppressed and cited the case reported at AIR 1994 SC 853 (S.P. Chengalvaraya Naidu V/s. Jagannath) in support of this last point.



.... 4

6. In the first instance, I have considered carefully the matter regarding limitation with reference to the year 1987 and would consider it fit to reject it because, as argued by the Learned Counsel for Applicant, the matter he is agitating is for non-regularisation and he is not questioning his discontinuation/removal, etc. either in 1987 or in 1991. I, therefore, proceed to examine the matter on merits. The point with regard to the letter of 1989 will however be examined later.

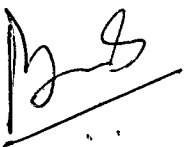
7. The main point that arises here is that there is an allegation about Applicant, amongst others, having a fake labour card. Once it is clarified that only those possessing labour card were preferred, the motive for fake labour card has been put forth. Now the facts on this score have been described in detail by the Respondents in their Written Statement but these have been considered by me with reference to the File No. SUR/B/RECT/Class.IV/Verification of Casual Labour Cards, produced today. It must be first realised that some of the rights that Learned Counsel for Applicant put forth like there being no enquiry nor a termination order, etc. would have come into play, either if termination order was questioned or if the Applicant was a regular employee of the Government/Railways. Neither is the case here very clear. The point that is being examined is with reference to the relief sought in regard to regularisation vis-a-vis the rights that would accrue through a Notification issued in 1999.

8. Now the important question that emerges is that, what the applicant is seeking really is regular employment through



regularisation. The rights in this connection are not the same as the rights of a person already in the regular employment of the Government. This is specially so when the applicant is charged with having produced fake labour card. It is well established that the employer, even Government, has a right not to consider such people for future employment on the basis of their record/antecedents.

9. I have seen the papers in the aforesaid file and find sufficient evidence as to why the applicant's case was not considered for regularisation. An enquiry has been taken up by the concerned railway staff in respect of a fairly large number of persons in regard to possession of bogus cards. The Applicant has been found to possess a fake card. I also give relevance to the two applications mentioned earlier, namely at pages 101 and 103 dated 15.03.1989 and 14.04.1989. There is an implied acceptance, as argued by the Learned Counsel for Applicant and in fact, this was well and truly the point when perhaps the matter could have been agitated before a Tribunal or Court of Law. This also becomes an infirmity. Once we find some substance about the misconduct of the Applicant, the Tribunal is not bound to provide the relief sought by the Applicant. As such, the relief cannot be provided by legal determination. The Government is well within its right not to consider such people for fresh employment which in fact is what regularisation would mean in the facts and circumstances of this case, where there was an initial employment purely on casual basis for less than three months in 1987 and again for about two months in 1991, the latter being classed as being obtained through fraud.



10. In the above circumstances, the application fails. The O.A. is therefore dismissed. There will be no orders as to costs.

*B. N. Bahadur*

---

(B. N. BAHADUR)  
MEMBER (A)

OS\*