

CENTRAL ADMINISTRATIVE TRIBUNAL

(14)

BOMBAY BENCH

ORIGINAL APPLICATION NOS.: 723/91 and 762/91

DATE OF DECISION: 25.1.1995

Mr. Goyaprasad M. Ganpat & 40 ors.

PETITIONER

in O.A.No. 723/91

Shanmugam Pakiri & 4 ors.

PETITIONERS

in O.A.No. 762/91

Mr. Ramesh R.

ADVOCATE FOR THE PETITIONER

v/s

U.O.I. & 3 Ors.

RESPONDENTS

Mr. J.G. Sawant

ADVOCATE FOR RESPONDENTS

CORAM:

THE HON'BLE SHIR JUSTICE M.S.DESHPANDE, VICE CHAIRMAN

THE HON'BLE SHIR P.P. SRIVASTAVA, MEMBER (A)

1. To be referred to the Reporter or not ?
2. Whether it needs to be circulated to other Benches of the Tribunal ?


Vice Chairman

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GULESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

(15)

O.A.Nos. 723/91 and 762/91

Goyaprasad M. Ganpat & 40ors. ..Applicants
in O.A. No.723/91

Shanmugam Pakiri & 4 ors. ..Applicants
in O.A. No. 762/91

v/s

Union of India & 3 ors. ..Respondents

Coram: Hon. Shri Justice M.S.Deshpande, Vice Chairman
Hon. Shri P.P.Srivastava, Member(A)

Appearance:

Mr. Ramesh Ramamurthi
Counsel for the applicants

Mr. J.G. Sawant
Counsel for the respondents

ORAL JUDGMENT:
(Per: M.S.Deshpande, Vice Chairman)

DATED: 25.1.1995

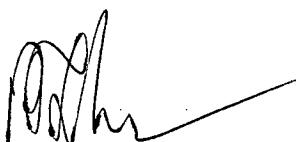
The questions raised by these two applications
are similar and we have heard the 1d. counsel

2. It is apparent that the application does not give
the dates of the appointment of the applicants and only
approximate dates on which they came to be terminated
are given. The respondents have stated in their reply
the dates on which each of the applicants was terminated.
The respondents have also stated that the applicants
have not put in 170 days continuous service and had
not attained temporary status. In view of this position
it is not possible for us, in the absence of any other
material, in support of the application, to decide upon
the rights of the applicants.

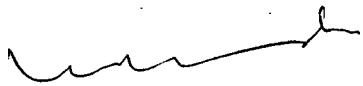
3. Shri Ramesh Ramamurthi, 1d. counsel for the
applicants states that he may be given an opportunity
to make a representation to the respondents by permitting

each of the applicants individually to make a separate application of his employment and upon such an application being made within four weeks from to day the respondents should decide those representations. We think that this is a proper course to adopt.

4. The applicants should make applications setting out the facts of each case before the concerned authority within four weeks from today. If such applications are made the respondents will consider the cases of those persons only who have made such applications within eight weeks from the date of receipt of the applications and if they find ^{that} any of the applicants are eligible to be screened that relief may be granted to them. If the applications are rejected the rejection should be done by passing a speaking order. With these directions the OAs are disposed of. No order as to costs.



(P.P.Srivastava)
Member(A)


(M.S.Deshpande)
Vice Chairman

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

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MUMBAI BENCHC.P.122/95 in O.A.723/91, C.P.134/95 in O.A.762/91C.P.123/95 in O.A.753/92, C.P.121/95 in O.A.754/926th, this the Wednesday day of JANUARY, 1997

(I) Goyaprasad Mahadeo Ganpat & Ors.

..Applicants in C.P.122/95 in O.A.723/91.

(II) Shanmugam Fakiri & Ors.

..Applicants in C.P.134/95 in O.A.762/91

(III) Rajarathnam Kandan & Ors.

..Applicants in C.P.123/95 in O.A.753/92

(IV) Mohd.H.Mulla & Ors.

..Applicants in C.P.No.121/95 in O.A.No.754/92

(By Advocate Shri M.S.Ramamurthy)

-versus-

Union of India & Ors.

..Respondents

AND

1. Shri B.N.Agrawal,
Divisional Railway Manager(Works)
Central Railway,
Bombay V.T.,Bombay-400 001.2. Smt .Alka Mishra
Senior Divisional Personnel
Officer,
Central Railway,
Bombay V.T.,
Bombay 400 001.

(By Advocate Shri S.C.Dhavan)

..Contemnners

CORAM: HON'BLE SHRI B.S.HEGDE, MEMBER(J)

HON'BLE SHRI M.R.KOLHATKAR, MEMBER(A)

- : O R D E R :-

¶Per B.S.Hegde, Member(J)¶

As all the CPs have arisen from a common judgment dt. 25-1-1995 they are being disposed of by a common order. For the purpose of reference CP 122/95 in O.A. 723/91 is taken.

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2. The applicants have filed CP 122/95 in O.A.723/91. Applicants have filed O.A. challenging the order of termination of their service w.e.f. 9-3-1991, and interalia praying for setting aside the order of termination and to reinstate the applicants in service with all consequential benefits including continuity of service and backwages. The grounds taken by the respondents was that the applicants had been engaged by the Time-keeper for certain maintenance work at Bombay V.T. and surroundings and the Time-keeper had no authority to engage any casual labour without the special permission of the GM as there was a ban on the recruitment of fresh casual labour as directed by the Railway Board. In the instant case the said Timekeeper had not obtained any permission of the competent authority i.e. G.M. before engaging the applicants. The said Timekeeper had also not followed any rules i.e. rules regarding engagement of casual labour which provides that only such casual labour who had worked earlier than 1981 and were discharged either on completion of work or lapse of the sanction were to be engaged by obtaining the sanction of the competent authority.

3. When the matter came up before the Tribunal for hearing considering the rival contention of the parties Tribunal had disposed of the OAs on 25-1-95 stating that the applicants had not given any dates of appointment of the applicants and only approximate dates on which they came to be terminated are given. Respondents have also stated that the

applicants have not put in 170 days continuous service and had not attained temporary status. Therefore, it is not possible for them in the absence of any other material to decide upon the rights of the applicants. Therefore the Tribunal observed that it is not possible for them to pass any order in the absence of any other material in support of the application to decide upon the rights of the applicants. Learned counsel for the applicants stated that they may be given an opportunity to make representation to the respondents by permitting each of the applicants individually to make a separate application of his employment and upon such an application being made within four weeks the respondents should decide those representations. Considering the contention of the counsel for the applicants the Tribunal directed the applicants to make necessary application/representation setting out facts of each case before the concerned authority within four weeks from 25-1-1995. If such applications were made the respondents will consider the cases of those persons only who have made such applications within eight weeks from the date of receipt of the application and if they find that any of the applicants are eligible to be screened that relief may be granted to them. If the applications are rejected their rejection should be by passing a speaking order. The OAs were disposed of accordingly.

4. Pursuant to the direction of the Tribunal

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the applicant Mohan Benjamin in O.A. 723/91 sent his representation dt. 16-2-95 to the competent authority i.e. DRM, Bombay V.T., asking for reinstatement of his service as casual labour in which he has stated that he has been working as casual labour w.e.f. 3-9-90 for 90 days and his service has been terminated w.e.f. 3-1-91 and no other particulars have been given in the representation.

5. The main thrust of the argument of the learned counsel for the applicant is that the respondents have deliberately refused to screen/absorb the class IV employees and thus committed contempt of court. He has also drawn our attention to the letter issued by the respondents dt. 17-8-94 asking the various authorities to furnish information regarding the casual labour/MR C.L. worked under their respective jurisdiction and presently not in service the names may be submitted in the proforma attached separately under the heading of Casual Labour/MR CL not in service. In supersession of this order(dt.17-8-94) respondents have issued another order dt. 7-10-94 requesting the authorities to furnish seniority list of working MRCEs with VIIIth standard and above qualification and who have not been screened till date. Since the respondents have refused to supply the forms and accept the same the applicants again approached the court seeking for a direction to the respondents to furnish proforma to the respective applicants. The Tribunal vide its order dt. 11-10-94 directed the respondents to give the

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forms in which the applications are to be made to the present applicants and directed the applicants to file the application before the due date. The respondents pursuant to the direction of the Tribunal passed the speaking order dt. 18-5-1995 stating that the application of Mohan Benjamin dt. 16-2-95 for reinstatement has been received and further stated that since he has been discharged from railway service well before the cut off date his application is not valid and he has not entitled for screening.

6. The respondents in their reply, however, stated that applications/representation have been considered by the competent authority and in the absence of any particulars i.e. date of appointment and establishing that they have worked continuously for more than 240 days respondents could not give any relief. Each applications have been considered on merit and suitable reply has been sent to the applicants. Further they submitted that the Tribunal's direction is not for ~~resig~~ reinstatement but on receipt of the representation and on giving overall particulars and if they fulfilled the criteria for screening respondents will consider thier case and pass speaking order. The stand taken by the respondents is that none of the applicants have completed 120 days of continuous working and that their services were terminated as per seniority upon completion of work against which they were engaged following the rule of

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last come first go. Therefore the question of screening does not arise. During the course of the hearing learned counsel for the respondents drawn our attention to the blank forms submitted by ~~the~~ some of the applicants where no particulars have been given in the absence of which screening could not be done. It is not the contention of the applicants that they have furnished full details and despite the same the respondents did not consider their case on merit. The letter dt. 17-8-94 is only for seeking information like list of people who are eligible for screening. That does not give any right ~~to~~ the applicants that they are entitled for screening. It is the duty of the applicants to furnish full details and on the basis of the details furnished by them their entitlement for screening is decided. It is not the case here. In the circumstance, no case has been made out by the applicants that the respondents have disobeyed the order of the Tribunal and in our view the applicants have failed in furnishing the information for consideration of their case and only on the basis of the information furnished by the applicant respondents can consider their case on merits. The order passed by the respondents does not call for any explanation. Accordingly, we are of the view that CP filed by the applicants are without any merit and the same is discharged.

M.R.Kolhatkar

(M.R.KOLHATKAR)
Member(A)

B.S.Hegde

(B.S.HEGDE)
Member(J)