

CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH
(CAMP: NAGPUR)

Original Application Nos. 1083/92; 1013/92; 1131/92 and 1166/92.

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DATE OF DECISION: 11.07.1995

C. Tularam & 3 ors. Petitioner

Mr. M.W. Harsulkar Advocate for the Petitioners

Versus

DRM, Cent. Rly., Nagpur Respondent

Mrs. Indira Bodade Advocate for the Respondent(s)

CORAM :

The Hon'ble Shri Justice M.S. Deshpande, Vice Chairman

The Hon'ble Shri 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 ?

N.D.

V.C.

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

CIRCUIT SITTING AT NAGPUR

O.A.Nos. 1083/92; 1013/92; 1131/92 and 1166/92

Chhabiprasad Tularam	..Applicant(OA 1083/92)
Suresh J. Warudkar	..Applicant(OA 1013/92)
Ramdas Nathoo	..Applicant(OA 1131/92)
Gangadhar V. Chavan	..Applicant(OA 1166/92)

V/s.

Divisional Railway Manager Central Railway, Nagpur & 2 o/s.	..Respondents in all four O.As.
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Coram: Hon. Shri Justice M.S.Deshpande, V.C.
Hon. Shri P.P. Srivastava, Member(A).

Appearance:

Mr. M.W. Harsulkar
Counsel for all applicants

Mrs. Indira Bodade
Counsel for the respondents

ORAL JUDGMENT: DATED: 11.07.1995
(Per: M.S.Deshpande, Vice Chairman)

Only two prayers viz., nos. 3 and 5, are being pressed in these four OAs seeking a direction for conferring regular status on the applicants by absorbing them in S&T Department of Nagpur Division of Central Railway and for a direction to respondent no.3 not to transfer the applicants out of Nagpur geographical division during the pendency of these Applications.

2. We need refer only to the facts of the O.A.No. 1083/92 because they are identical. The applicant was appointed as a Casual Worker on 27.5.1983. All the applicants in all the four OAs had earlier filed OA Nos. 5/87; 6/87; 7/87 and 8/87 before this Tribunal

seeking reliefs and by a joint judgment delivered on June 20, 1988 the respondents were directed to treat the applicants as having continued in service from September 19, 1986 and be paid full salary and permissible allowances as they were drawing before their services were terminated less the amounts paid to them by way of daily wages. Prayers Nos. 2 and 4 in the present Applications were for modifying and correcting the seniority list (Annexure 3) after giving the benefits of the total length of service rendered by the applicant in Nagpur geographical division from 27.5.1983 onwards and for a direction to pay the arrears and all the monetory and promotional benefits after refixation of their seniority as per length of service. The Ld. Counsel for the applicants stated that these two reliefs have already been granted by the respondents to the present applicants and these prayers would not, therefore, survive.

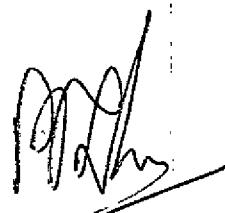
3. There is no dispute before us that in response to the directions of the Supreme Court in INDER PAL YADAV Vs. UNION OF INDIA (1985) 2 SCC 648, a scheme has been framed and a seniority list of the category to which the applicants belong has been drawn up. The applicants have also been informed about their serial numbers in the seniority list so drawn up. The submission of the Ld. counsel for the applicants is that the applicants have not been informed about the panels which have been formed and the approximate period when they would be regularised. We enquired from the Ld. Counsel for the respondents about the exact position and we were told that a large number of permanent workers of the Loco Shed who have been rendered surplus

are also to be provided with regular jobs and that it is not possible to predict the approximate time when the present applicants can be absorbed and regularised, though it was stated that they would be granted regularisation according to their turn in the seniority list so maintained. Mr. Harsulkar alleged that though panels are prepared they are not made public with the result the ~~the~~ applicants and others of their category are left in suspense and if the panels are directed to be published on notice boards it would be possible for the applicants to expect when they can be regularised. All that we need to do in the present cases is to direct the respondents to publish the panels prepared before the end of December and end of June of every year so that those who have been included and those who have not been included are left in no suspense and they could legitimately expect when their regularisation would be possible. Mr. Harsulkar for the applicants states that in the case of STATE OF HARYANA AND OTHERS Vs. PIARA SINGH AND OTHERS^{(1992)21 ATC 403} a specific direction that the scheme shall be framed within six months was given. He urged that a similar direction specifying the time limit be given in these cases also. We do not think that any fresh directions are called for in view of the scheme already in existence pursuant to the decision in INDER PAL YADAV (supra) and hence the contention of Shri Harsulkar in this respect cannot be accepted.

4. With regard to the direction not to transfer the applicants out of Nagpur geographical division, the Lt. Counsel for the respondents informed us that there is no regular policy in this respect, but instructions have been issued by the Railway Electrification, Allahabad on 2.8.1991 regarding diversion and diversion is to be ordered in order to avoid retrenchment and to utilise the surplus man power and the likelyhood of their coming back to their parent cadre would be bleak and it was therefore suggested that the diverted staffs pay should be drawn against the sanction of the new unit where the casual labour for the time being is working. This however cannot be said to amount to a policy or a guide line in the matter of transfer. It would be only reasonable to ask the respondents to frame guidelines which would govern the transfers of staff which would be applicable to the present category. Shri Harsulkar urged that we should direct that as far as possible seniority should be one of the factors which could be taken into account while effecting the transfer. Though it could be one of the factors which could be considered, it would not be possible for us to lay down a policy for the guidance of the Administration. It would be, therefore, for the Administration to consider the several factors which should go into the matter of transfer and all that we can say is that the respondents should prescribe the guidelines governing the matter of transfer of the workers in the category ^{from} ~~to~~ which the present applicants are drawn, within three months from the date of receipt of a copy of this order ^{and} as far as possible adhere to the guidelines which they would themselves prescribe.

5. In the result we direct the respondents to

publish the panels of the workers who have been listed in the seniority list and screened for the purpose of regularisation before end of December and June every year and also frame a policy in the light of our above observations regarding transfer within three months from the date of communication of this order. No order as to costs.



(P.P.Srivastava)
Member(A)



(M.S.Deshpande)
Vice Chairman

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