

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

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Original Application No: 451/92

Date of Decision: 3/9/1997.

Subhash Mahadeo & ors.

Applicant.

Shri S.R.Atre

Advocate for
Applicant.

Versus

Union of India & Ors.

Respondent(s)

Shri S.C.Dhawan.

Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. Justice R.G.Vaidyanatha, Vice-Chairman,

Hon'ble Shri. P.P.Srivastava, Member(A).

- (1) To be referred to the Reporter or not? *ye*
- (2) Whether it needs to be circulated to other Benches of the Tribunal? *no*

R.G.Vaidyanatha
(R.G.Vaidyanatha)
Vice-Chairman.

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,

MUMBAI BENCH, MUMBAI.

ORIGINAL APPLICATION NO. 451/1992.

Wednesday, this the 3rd day of September, 1997.

Coram: Hon'ble Shri Justice R.G.Vaidyanatha,
Vice Chairman,
Hon'ble Shri P.P.Srivastava, Member(A).

1. Subhash Mahadeo,
Aagwali Chawl,
R.B.1/372/4 Lonavala.
2. Babulal Manfulla,
Swarajya Nagar,
Qtr. No.TY/C/3,
Lonavala.
3. Kallu Munshi,
Qtr. No.TY C/16,
Swarajya Nagar,
Lonavala.
4. Vittal Bhimaji Gaikwad,
Datta Colony, Navin
Gaothan, House No.801,
Kamshet.
5. Govind Sakhararam Gaikwad,
At and Post, Tungarli,
Lonavala.

... Applicants.

(By Advocate Shri S.R.Atge)

V/s.

1. Union of India through the
Chairman, Railway Board,
Rail Bhavan,
New Delhi.
2. The General Manager,
Central Railway,
Bombay V.T.
3. The Divisional Railway Manager,
Central Railway,
Bombay V.T.
4. The Inspector of Works,
Central Railway Maintenance,
Lonavala.
5. Yeshwant Shravan, Carpenter,
ICW, Central Railway
Maintenance, Karjata.
6. Rajan Pandurang, Carpenter,
ICW/Maintenance, Central Railway,
Karjat.

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7. Anil Ranganath,
Carpenter, IOW/
Maintenance, Central Railway,
Lonavala.
8. Keroo Walhoo,
Mason, IOW/Maintenance,
Central Railway,
Lonavala.
9. Maruthi Waman,
Mason, IOW/Maintenance,
Central Railway,
Karjat.
10. Shankar Babu,
Mason, IOW/Maintenance,
Central Railway,
Karjat.
11. Raghu Bandu,
Black Smith,
IOW/Maintenance,
Central Railway,
Karjat.
12. Shreeji Bapu,
Carpenter,
IOW/Maintenance,
Central Railway,
Lonavala.
13. Ramdas Gulabrao,
Fitter,
Class III, IOW/
Maintenance, Central Railway,
Karjat.
14. Ashok Vishnu,
IOW/Maintenance,
Central Railway,
Karjat.

... Respondents.

(By Advocate Shri S.C.Dhawan)..

O R D E R

(Per Shri Justice R.G.Vaidyanatha,
Vice Chairman).

This is an application filed by the applicants for certain reliefs under section 21 of the Administrative Tribunals Act. The respondents have filed reply opposing the application. Heard both the sides.

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2. The case of the applicants in brief is as follows. The applicants were working as Artisans, as Casual Labourers under the Railway Administration. The applicants worked as Casual Labourers for a long time. The applicants were given permanent posting in 1988-89. They were given designations in Class IV posts to be designated as ^{Khalasi to} Fitter, Mason or Carpenters. Then it is stated that the Railway Administration introduced a decasualisation scheme in 1990 by creating 85 new skilled posts, which are Class.III posts. The applicants were not promoted in the said newly created Class.III posts. However, some of the respondents viz. R-5 to R-14 who were juniors as Casual Labourers than the applicants came to be absorbed in the newly created posts under the decasualisation scheme. Accordingly, the applicants state that they were entitled to be considered and appointed in the newly created Class.III posts and since their juniors have been appointed ^{they} have come up with the present application challenging the same. Therefore, they have filed the present application for quashing the appointment of Respondents No.5 to 14 to the Class III posts of Artisans and instead to promote the applicants to the said posts and for some consequential reliefs.

3. The Railway Administration has filed a written statement. It is stated that the applicants were working as Casual Labour Artisans and on their willingness they have been absorbed permanently in

...4.

Class IV posts. In particular, the first applicant was appointed to the permanent post on 23.1.1988 and the other four applicants were absorbed in the permanent post in 1989. When the Railway Board introduced the decasualisation scheme of 1988 in 1990 then the Casual Labourers who working in 1990 came to be appointed in the newly created post. It is therefore stated that the applicants were not entitled to be considered in the decasualisation scheme in 1990 since they had already become permanent employees in 1988 or 1989 and the applicants grievance about appointment of R-5 to R-14 has no basis. It is therefore submitted that the applicants are not entitled to any other reliefs.

4. The short point for consideration is whether the applicants have made out a case for being appointed to the newly created Class III posts in 1990 under the decasualisation scheme.

5. In our view, after hearing both the sides, we find that there is no merit in the contentions of the applicants. The decasualisation scheme itself says that those persons who were working as Casual Labourers were entitled to be considered for appointment to permanent posts. On their own admission, the applicants were no longer Casual Labourers in 1990 and Respondents No.5 to 14 came to be appointed to permanent posts in Class III category. If applicants were also Casual Labourers in 1990 and if some juniors have been appointed ignoring their claim, then

the applicants could have successfully challenged the appointments of R-5 to R-14. Since on their own admission the applicants had accepted permanent Class IV posts either in 1988 or in 1989 they had no right to be considered for permanent Class III post under the decasualisation scheme in 1990. Hence, on this short ground the applicants claim is liable to be rejected.

6. The Railway Administration has also brought to the notice of the Court that the applicants had given in writing willingness for accepting the post of Khalasi which is a Class IV post. The xerox copy of the letters are produced. The learned counsel for the applicants submitted that the signatures of the applicants were taken by ^{pressure or} force and they are not binding on the applicants. Except a vague allegation, no material is placed on record to show that these consent letters were taken by ^{pressure or} force. There is no reason for the officers of the Railway Administration to put pressure or force on the applicants to give such consent letters. Even for a moment we ignore these consent letters, it is an admitted and undisputed fact that the applicants accepted the appointments of Class IV posts and started working there from 1988-89. Having worked in that post for two years and enjoyed the benefits of permanent status, they cannot now turn round in 1990 and say that they should be given the benefit of 1990 scheme. Further we may also point out that the applicants themselves have produced one

representation of July, 1990(which is at Annexure A-5 at page 30 of the paper book) written by them jointly to the Railway Administration. In this letter they have pointed out, when they were appointed to the permanent Class. IV posts. There is no whisper in this letter about taking their willingness by force or that they were pressurised to work in permanent Class IV posts.

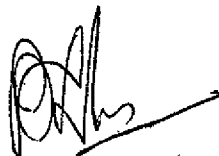
7. The distinction between a permanent post and a Casual Labour post is well known. A Casual Labour has a risk of his service being terminated at any time. There is no lien on the post. On the other hand, a permanent employee has permanent tenure, apart from many other service benefits. The applicants who were casual labourers might have thought at one time that accepting a lower post would be beneficial and at least would give them permanent tenure and accordingly accepted the Class IV post in 1988-89. They were no longer Casual Labourers for being considered under the decasualisation scheme of 1990 when Respondents No.5 to 14 came to be absorbed under that scheme. Hence the applicants cannot have any grievance of some junior Casual Labourers being appointed under the scheme of 1990 since they were no longer Casual Labourers in 1990. The two decisions cited by the learned counsel for the applicants

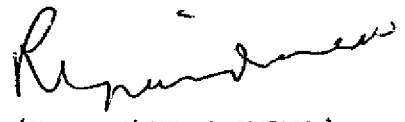
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reported in A.I.R. 1986 SC 1636 (Sushil Kumar Yadunath Jha V/s. Union of India & Anr.) and the case reported in (1992) 19 ATC 302 (Nirmal Chandra Bhattacharjee and Others. V/s. Union of India & Others.) have no application on the point under consideration.

8. In the result, the application is dismissed. In the circumstances of the case, there will be no order as to costs.


(P.P. SRIVASTAVA)
MEMBER (A)


(R.G. VAIDYANATHA)
VICE -CHAIRMAN.

B.