

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

Original Application No: 249/93.

Date of Decision: 10.11.97

Rafiq Abdul & 4 Others, Applicants

Shri S. M. Dharap, Advocate for
Applicant.

Versus

Union Of India & Another, Respondent(s)

Shri N. K. Srinivasan, Advocate for
Respondent(s)

CORAM:

Hon'ble Shri. B. S. Hegde, Member (J).

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? *✓*

(P. P. SRIVASTAVA)
MEMBER (A).

B. S. Hegde
(B. S. HEGDE)
MEMBER (J).

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CENTRAL ADMINISTRATIVE TRIBUNAL

MUMBAI BENCH

ORIGINAL APPLICATION NO.: 249/93.

Dated this 10th day of November, 1997.

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

1. Rafiq Abdul,
Magdum Building, Room No. 8,
Mumbra, District Thane.

2. Ashok Tanaji,
Sen Nagar, Railway Colony,
Room No. 101, Santacruz(E),
Bombay - 400 055.

3. Yaqub Shaikh Chand,
155, Kherwadi, Bandra (E),
Bombay - 400 051.

4. Vasant Dashrath Haiderali,
Haiderali Chawl, Room No. 6,
Motiram Compound, Malad,
Bombay - 400 064.

5. Deepak Pandharinath,
Shiv Bhavan, Bldg. No. 1,
Room No. 13, Bal Shelly
Murudkar Marg,
Elphinstone Road,
Bombay - 400 013.

(By Advocate Shri S. M. Dharap)

... Applicants

VERSUS

1. The General Manager,
Western Railway, Churchgate,
Bombay - 400 020.

2. The Union Of India,
Ministry Of Railways,
Railway Board, Rail Bhavan,
New Delhi.

... Respondents.

(By Advocate Shri N.K. Srinivasan)

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B.M.

: ORDER :

{ PER.: SHRI B. S. HEGDE, MEMBER (J) }

The applicants are working as casual employees in the post of Car/Motor Lorry Drivers in the scale of Rs. 950-1500 in the Survey & Construction Wing of the Engineering Department of Western Railway. The applicants have been given temporary status as Driver in the grade of Rs. 950-1500 with effect from 01.01.1983 as a result of Hon'ble Supreme Court's decision in Inder Pal Yadav's case. The applicants were screened for permanent absorption in the Open Line of Bombay Division under whose jurisdiction they were working in the Construction Department in terms of the Hon'ble Supreme Court decision in Inder Pal Yadav's case. The respondents have offered the applicants the job of Gangman in the scale of Rs. 775-1025 for permanent absorption in the Open Line after they conducted the screening in the year 1989. The Chief Administrative Officer (Construction), therefore, decided to release the applicants, besides others, for being posted under the Divisional Railway Manager vide their letter dated 13.03.1992 placed as Annexure-'G'. Since the applicants did not agree for this absorption, as their pay was being reduced, they were not released by the Construction (Administration).

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The applicants have approached the Tribunal and have prayed that they should be absorbed in the grade of Drivers and the Administration should be restrained from appointing the applicants as Gangman.

2. The respondents have brought out that the applicants were appointed as Casual Labour in the Construction Organisation and have been working as Casual Drivers in the scale of Rs. 950-1500, which is a Group 'C' post. The respondents have further brought out that there are no permanent posts in the Construction Organisation, and therefore, the applicants were screened for permanent posting in the Open Line against the decasualisation of post of Open Line. Since there are no posts in the Construction Department for permanent absorption, the applicants cannot be absorbed permanently as Drivers under Construction (Administration).

3. The respondents have also brought out that there are no direct recruitment to the post of Driver under Railways. The Motor Drivers in the Railways are recruited from among the Class-IV employees, who possess valid licence, after selection and screening. Therefore, there is no direct recruitment to the post of

Driver and the applicants cannot be posted directly as Driver, as there is no direct recruitment to the post of Driver in the open line. Since the Administration has decided to absorb the construction staff in the Open Line on permanent basis as a result of the decision of the Hon'ble Supreme Court in Inder Pal Yadav's case, by having a common seniority of open line and Construction Casual Labourers, the applicants have been absorbed in the open line on regular basis. Since all regularisation in the open line is done against Class-IV post only, the applicants have also been screened and given posting as Gangman in the grade of Rs. 775-1025.

4. The Counsel for the applicant has argued that since the applicants are working continuously for more than 15 years, their post should be decasualised and created permanently, in terms of the Railway Board's circular ~~on~~ on the subject 'Decasualisation of Casual Labour' which is placed at exhibit 'B', letter no. E(NG)-II-74CL/27 dated 20.08.1974. The Counsel for the respondents has argued that this letter is applicable only for the Open Line and not applicable to the Construction side.

5. We have heard both the parties and perused the records. It is seen that the scheme of decasualisation

is meant for Open Line Organisation and the Casual Labourers working in the Open Line, who are working in the post of regular nature are required to be absorbed permanently by decasualising these posts. The letters quoted by the Counsel for the applicants, do not show that the scheme of decasualisation is applicable for the Construction Department also. On the other hand, reading of these letters clearly shows that decasualisation is meant for Open line organisation. Therefore, we do not see any merit in the claim of the applicant that decasualisation scheme should be applied in the Construction Department and they should be absorbed by decasualising the post of Drivers.

6. We also see no infirmity in the order of the respondents department in offering the post of Gangman on permanent absorption in the Open line.

7. In the result, we see no merit in this O.A. and the same is liable to be dismissed. We accordingly dismiss the O.A. with no order as to costs.


(P.P. SRIVASTAVA)
MEMBER (A).


(B. S. HEGDE)
MEMBER (J).