

O.A.No. 356 of 1987

Date of Order: 6th Feb., 1990

Between:

1. E.Syam Ratnakumar
2. P.Venkateswara Rao
3. D.Sreeramulu
4. N.Venkateswarlu
5. K.Apparao
6. B.Ramachandra Rao
7. K.Bhaskara Rao

.. Applicants

And

1. Union of India, rep. by the Secretary, Ministry of Transport, Department of Railways, New Delhi.
2. Chief Engineer (Construction), South Central Railway, Sec'bad.
3. Divisional Engineer (Survey) South Central Railway, Vijayawada, Krishna Dist.

Appearance

For the Applicants : Shri T.Jayant, Advocate.
For the Respondents : Shri P.Venkatrama Reddy, Standing Counsel for Railways.

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HON'BLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.
AND
HON'BLE SHRI D.SURYA RAO, MEMBER (JUDICIAL).

(JUDGMENT OF THE BENCH DELIVERED BY HON'BLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN)

1. The applicants herein were appointed as Casual Labourers in the South Central Railway on daily wages basis. It is alleged that while they were working as such, their services were terminated without any written orders, when they had proceeded on medical leave. When they sought to rejoin duty after expiry of leave, they were not permitted to do so. The particulars of their dates of initial appointments and

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the dates on which they were prevented from joining duty are given hereunder:-

Sl. No.	Name of the Applicant	Date of initial appointment	Date from which he was prevented from joining duty.
1.	E.Syam Ratnakumar	11-09-81	01-05-84
2.	P.Venkateswara Rao	24-03-81	28-04-84
3.	D.Sreeramulu	25-03-81	20-04-84
4.	N.Venkateswarlu	31-12-81	01-06-84
5.	K.Apparao	18-11-82	03-09-84
6.	B.Ramachandra Rao	10-02-77	10-04-84
7.	K.Bhaskara Rao	11-04-83	15-08-84

2. It is stated that the Divisional Secretary, South Central Railway Workers' Union, Vijayawada, on 10-9-1985 brought to the notice of the Divisional Engineer (Construction), South Central Railway, Khajipet, the 3rd respondent herein that the applicants among some others were retrenched even though they had submitted leave applications for their absence for a few days and this was despite the fact that the Supreme Court through its Judgment dated 18-4-1985 directed that the Casual Labourers, who have put in 360 days service after 1-1-1981, should be regularised and on that basis the applicants may be reinstated. It is further stated that through a representation dated 16-6-1986, the 3rd respondent herein was reminded in the matter. As no action was taken by the 3rd respondent, the said Union by its letter dated 12-1-1987 requested the 2nd respondent to intervene in the matter and he was reminded by their letter dated 4-2-1987. As the 2nd respondent also kept silent, the applicants got a Lawyer's

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Notice dated 6-3-1987 issued to the 2nd and 3rd respondents. But no reply was received. The applicants therefore seek a direction to the respondents herein to grant them temporary status in the light of the Supreme Court Judgment dt.18-4-1985 read with Railway Board's letter dated 11-9-1986.

3. On behalf of the respondents counter has been filed stating that the claim of the applicants is time barred and if the applicants had any grievance about the alleged retrenchment which took place in the year 1984, they should have moved this Tribunal within the reasonable time. They made a representation on 12-1-1987 to the 2nd respondent, who is not directly concerned with the subject matter. It is further contended that the representations dated 10-9-85 and 16-6-86 were addressed to the Divisional Engineer (Constrn.), Kazipet, under whom the applicants were never employed. The applicants were working under the Divisional Engineer (Survey), Vijayawada, which division was closed in October, 1987 and merged with Survey Division, Secunderabad. The applicants were given 1/30-th of the Scale Rate of Pay of six months of continuous service. They are project labourers engaged on daily wages and they were not entitled to temporary status till the issuance of the Railway Board's Circular dt.11-9-86. It is stated that they were treated ^{as having} ~~to have~~ left the service and their names were struck off from the muster rolls after they failed to report for duty consecutively for 5 to 21 days. It is denied that the applicants applied for medical leave and ^{had} when they wanted to report for duty after expiry of medical leave, their services were terminated. In the Service Particulars Register as well as L.T.I. Register, it is shown that the 1st applicant left service on 26-4-84, the 2nd applicant on 28-4-84, the 3rd applicant on 20-4-84,

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4th applicant on 1-6-84 and 5th applicant on 22-3-84, 6th applicant on 10-4-84. The 7th applicant was retrenched with effect from 27-7-1984 for want of work. The 1st applicant submitted an application dated 20-6-1986 to the Inspector of Works (Survey), Vijayawada, stating that he has stopped from railway service for certain reasons and requested for issuance of Service Certificate and accordingly a Service Certificate was issued to him on 20-6-86.

4. So far as temporary service is concerned, it is stated in the counter that the first respondent issued orders on 25-5-1987 granting temporary status to the applicants ¹⁻⁶ with effect from 1-1-1984 and in the case of the 7th applicant w.e.f. 2-5-1984. It is further stated that as they left the service and were not in employment by the time the Railway Board's Circular was issued, the differential wages were not paid to the applicants. Hence, there are no merits in the case of the applicants and the O.A. may be dismissed.

5. We have heard Shri Jayant, learned counsel for the applicant and Shri P.V.Reddy, Standing Counsel for the Railways.

6. On a consideration of the facts narrated above, it is clear that the applicants absented from work and did not report again. The applicants made no effective representations till 10-1-1987. In these circumstances, we find no merit in their case, and their claim for the benefit of regularisation under Supreme Court Judgment cannot be sustained.

7. The next point for consideration is whether the applicants are to be given any relief since they were granted temporary status. By virtue of the orders dated 25/5/87, applicants 1 to 6 were granted temporary status

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with effect from 1-1-1984 and applicant no.7 with effect from 2-5-1984. The applicants will be entitled for differential salary from the dates of conferment of temporary status upto the date they absented themselves from duty. This shall be computed and paid to the applicants within a period of three months.

8. Shri Jayant urges that the applicants having worked as Casual Labourers and also attained temporary status should not be debarred from seeking fresh employment as Casual labourers when fresh persons are engaged. The applicants may make representation in this behalf to the Railway Administration who will consider the same and employ them according to the rules, if work is available. In that event, they will be treated as fresh entrants and will be juniors to the existing casual labourers.

9. In the result, the application is disposed of with the above directions. No costs.

B.N. Jayasimha
(B.N.JAYASIMHA)
Vice Chairman

D. Surya Rao
(D.SURYA RAO)
Member (Judl.)

Dt.6th February, 1990
(Dictated in open court)

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TO:

1. The Secretary, (Union of India) Ministry of Transport, Department of Railways, (Railway Board) New Delhi-1.
2. The Chief Engineer (construction) south central railway, Divisional office compound, Sec'bad.
3. The Divisional Engineer (Survey) south central railway, Vijayawada, Krishna Dist.
4. One copy to Mr. T. Jayant, Advocate, H.I.G. II, B-2, F-4, opp. water tank, near Amberdkar college, Bagh Lingampally, Hyderabad-500 044.
5. One copy to Mr. P. Venkatarama Reddy, SC for Rlys., CAT, Hyd.
6. One spare copy.

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