

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT : HYDERABAD

O.A.No.357 of 1987

Date of Order: 6-2-1990

Between:-

1. Lazer
2. A.Venkateswara Rao
3. P.Sreeramulu
4. S.Gandhi
5. K.Lakshminarayana
6. V.Venkateswara Rao
7. P.Peda Bapaiah
8. N.Seetharamaiah
9. P.China Bapaiah

.. Applicants

And

1. Union of India rep. by Secretary,
Ministry of Transport, Department
of Railways, New Delhi.
2. Chief Engineer (Construction), South
Central Railway, Divisional Office
Compound, Secunderabad.
3. Divisional Engineer (Construction),
South Central Railway, Khajipet,
Warangal District. ..

Respondents

Appearance:-

For the applicants : Shri T.Jayant, Advocate.

For the respondents : Shri P.Venkatrama Reddy,
Standing Counsel for Railways.

CORAM

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

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

The applicants herein were appointed as Casual Labourers in the South Central Railway on daily wages basis. They allege that their services were terminated without any written orders and without any prior notice as and when they proceeded on medical leave and when they sought to report for duty after expiry of leave, they were not permitted. The dates on which their initial appointments were made and the dates

bni

contd..page 2/-

from which they were prevented from joining duty after
are
expiry of their leaves is shown below:-

| Sl. No. | Name of the applicant | Date of initial appointment | Date from which he was prevented from joining duty |
|---------|-----------------------|-----------------------------|--|
| 1. | G.Lazer | 20-1-82 | 9-11-84 |
| 2. | A.Venkateswara Rao | 20-8-81 | 20-9-84 |
| 3. | P.Sreeramulu | 20-8-82 | 1-1-84 |
| 4. | S.Gandhi | 13-3-81 | 30-4-85 |
| 5. | K.Lakshminarayana | 24-3-83 | 23-11-84 |
| 6. | V.Venkateswara Rao | 17-3-82 | 12-4-84 |
| 7. | P.Peda Bapaiah | 18-1-82 | 10-11-84 |
| 8. | N.Seetharamaiah | 12-1-83 | 17-11-84 |
| 9. | P.China Bapaiah | 18-1-82 | 15-12-84 |

2. It is contended that representations were made by the Divisional Secretary, SCR Workers Union, Vijayawada, in his letter dated 10-9-85 to the 3rd respondent followed by a reminder dt.16-6-86 bringing to his notice that the applicants and others were retrenched eventhough they had submitted leave applications. On the basis of a Supreme Court's Judgment dated 18-4-1985 wherein directions were given that Casual Labourers who have put in 360 days service after 1-1-1981, should be regularised, the applicants claim that they are entitled to regularisation. As no action was taken by the 3rd respondent, the Union by letter dated 12-1-87 requested the 2nd respondent to intervene in the matter, that was followed by a reminder dated 4-2-1987. As the 2nd respondent also did not take any action, a Lawyer's notice dated 6-3-1987 was issued to the 2nd and 3rd respondents. There was no reply to that notice also. The applicants therefore seek a direction from this Tribunal

bvi

contd...3

to direct the respondents to grant temporary status to the applicants in the light of the Supreme Court Judgment dated 18-4-1985 read with Railway Board's letter dated 11-9-1986.

3. On behalf of the respondents a counter has been filed stating that the applicants were engaged in the 3rd respondent's unit for the purpose of executing double line work. After working for a few months, they absented themselves for considerable periods without reporting to duty. The allegation that they were on medical leave is baseless. In view of their continued absence from duty, their names were struck off the rolls and an endorsement was made in the Registers that they had left the service. The dates of their appointment and the dates on which they were treated to have left service are as under:-

| Sl. No. | Name of the applicant | Date of appointment | Date on which left service |
|---------|-----------------------------------|---------------------|--|
| 1. | G.Lazer Muthuselulu | 23-8-84 | 4-10-84 |
| 2. | A.Venkateswara Rao Simhachalam | 23-8-84 | 10-9-84 |
| 3. | P.Sreeramulu - Sivalingaswamy | 3-8-84 | Sent for Medical Examination on 5-7-85 and did not turn up for duty. |
| 4. | S.Gandhi - Yedukondalu | 3-8-84 | 19-4-85 |
| 5. | S.Laxminarayana - Veeranna | 3-8-84 | 5-11-84 |
| 6. | V.Venkateswara Rao - Veeraswamy | 8-8-84 | 5-11-84 |
| 7. | P.Pedda Papaiah | 3-8-84 | 26-10-84 |
| 8. | N.Seetharamaiah - Basavaiah | 3-8-84 | 5-11-84 |
| 9. | P.Chinna Papaiah - Veeraswamy | 3-10-84 | 3-12-84 |

(b)(i)

contd..4

Thus the respondent's case is that the applicants worked only for a few months, they did not render 360 days of continuous service and they were not in employment by 1-1-1986. Hence they cannot be given temporary status and the relief sought for by them cannot be granted.

4. We have heard the learned counsel for the applicant Shri T.Jayant and Shri P.Venkatarama Reddy, SC for Railways.

5. The counter filed on behalf of the respondents clearly discloses that the applicants had not applied for medical leave. The contention of the applicants that they applied for medical leave and absented themselves for valid reasons is not supported by any material. We cannot therefore direct their reinstatement.

6. However, from the counter it is seen that the applicants originally worked as Casual Labourers under the Divisional Engineer (Survey) in project works. Thereafter they were sent to 3rd respondent viz., Divisional Engineer (Construction) South Central Railway, Khajipet. The Divisional Engineer engaged them for the purpose of execution of the double line works. The dates given in the counter as extracted in para 3 supra disclose that the respondents have reckoned the period of services rendered by the applicants only from the dates of their appointment under the Divisional Engineer at Khazipet and have not taken into account the services rendered by them earlier under the Divisional Engineer (Survey). The service rendered by the applicants under the Divisional Engineer (Survey) should also be taken into account for purpose of confirming temporary status if they have put in 360 days after 1-1-1981 prescribed in the Railway Board's circular No. E(NG) II/84/CL/41, dated 11-9-1986. If the applicants satisfy

To:

1. The Secretary, (Union of India), Ministry of Transport, Department of railways, New Delhi.
2. The Chief Engineer (construction), south central railway, Divisional office compound, secunderabad.
3. The Divisional engineer (construction), south central railway, Khajipet, Warangal district.
4. One copy to Mr.T.Jayant, Advocate, H.I.G.II, Block 2, Flat 4, Opp.water tank, Bagh lingampally, Hyderabad-500 044.
5. One copy to Mr.P.Venkatarama Reddy, Standing counsel for Railways, CAT, Hyderabad.
6. One spare copy.

• • •

kj.

100
Received 16/11/90
16/11/90

19/11/90

(Sb)

the requirements laid down in the said Railway Board's circular, they will be entitled to temporary status, and for the differential salary from the date of conferment of temporary status to the date of their absenting from the service. Accordingly, we direct the respondents to confer temporary status to the applicants after verifying the records and if they are eligible for temporary status pay them the differential salary.

7. 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.

8. 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)

SQH*

S. Venkateswaran
DEPUTY REGISTRAR (B)

.....

19/4/90

Shri Jayant