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Central Administrative Tribunal

HYDERABAD BENCH : AT HYDERABAD

O.A. No. 477/89.

Date of Decision : 22-10-90.

--T.A.No--

D.Thomas & 37 others

Petitioner.

Shri B.N.Sarma for Shri V.Rama Rao

Advocate for the
petitioner (s)

Versus

Chief Project Manager, Carriage Repair Workshop Respondent.
Headquarter Office, Mechanical Branch, Secunderabad
& 3 others

Shri N.R.Devaraj, SC for Railways Advocate for the
Respondent (s)

CORAM :

THE HON'BLE MR. J.Narasimha Murthy : Member(Judl)

THE HON'BLE MR. R.Balasubramanian : Member(Admn)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgment ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?
5. Remarks of Vice Chairman on columns 1, 2, 4
(To be submitted to Hon'ble Vice Chairman where he is not on the Bench)

No

HJNM
M(J)

HRBS
M(A)

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BRANCH
AT HYDERABAD

O.A.No.477/89.

Date of Judgment 22.10.90

1. D.Thomas
2. V.P.Sivadasan
3. K.Chandran
4. R.B.Kishore Singh
5. K.Babu
6. P.C.Subbarao
7. G.Rajender Prasad
8. M.Chandra Mouli
9. S.Karunakaran
10. V.A.Madhusudanam
11. M.Kamala Syamaiah
12. P.Venugopal
13. N.Nagamani
14. N.Ramachary
15. V.Sudhakaraiah
16. N.Balasubrahmanyam
17. B.Penchalaiah
18. G.Suryaprakash
19. N.Venkatumuni Reddy
20. B.Lazar
21. M.Sreehari
22. K.Krishna Moorthy Reddy
23. N.Manikya Rao
24. K.Venkata Reddy
25. S.Ratnakar
26. M.Arjuna Reddy
27. V.A.Radhakrishna
28. A.Satyanarayana
29. C.Kannaiah
30. B.A.Arjun Kumar
31. G.Murali
32. V.Ramachandraiah
33. U.Santhanam
34. A.Munuswamy
35. K.Sreenivasachary
36. B.Brahmaiah
37. K.Subrahmanyam
38. P.Ramaswamy

.. Applicants

Versus

1. Chief Project Manager,
Carriage Repair Workship, Tirupati,
Headquarter Office, Mechanical Branch,
Secunderabad.
2. The Chief Personnel Officer,
Headquarter Office, Personnel Branch,
S.C.Railway, Secunderabad.
3. General Manager,
South Central Railway,
Secunderabad.
4. Govt. of India, represented by its
Secretary, Ministry of Railways,
New Delhi.

.. Respondents

Counsel for Applicants : Shri B.N.Sarma
for Shri V.Rama Rao

Counsel for Respondents : Shri N.R.Devaraj,
SC for Railways

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CORAM:

Hon'ble Shri J.Narasimha Murthy : Member(Jud1)

Hon'ble Shri R.Balasubramanian : Member(Admn)

I Judgment as per Hon'ble Shri R.Balasubramanian,
Member(Admn) I

This application has been filed by Shri D.Thomas and 37 others under section 19 of the Administrative Tribunals Act, 1985 against the Chief Project Manager, Carriage Repair Workshop, Tirupati, Headquarter Office, Mechanical Branch, Secunderabad and 3 others.

2. The applicants who had all acquired temporary status between 1.1.81 and 1.1.84 in the Engineering Department were working as Engineering Project Labour in the said Department. During the year 1986, it is stated that they were screened for absorption in regular service. It is stated that this was approved by the competent authorities and the applicants were taken as substitutes in the Mechanical Department where they want to be absorbed on regular basis. The applicants are aggrieved that in spite of their being found successful in the screening held in October, 1986 and being appointed as substitutes in the Mechanical Department, they have not so far been absorbed on regular basis. On the other hand the respondents conducted another screening on 25.6.88 ^{published} with no results _{till date.} They have prayed that the Tribunal give a direction to the respondents to regularise their services in Group-D with effect from the date of their absorption as substitutes with all consequential benefits.

3. The respondents opposed the prayer. It is stated that the test conducted in October, 1986 was not a screening test in the ^{true} sense. ~~it is meant~~. The applicants were all in the Engineering Department and they wanted to join the Mechanical Department. The test which was conducted at that time was only a suitability test to see if the applicants were suitable for work in the Mechanical Department. They were found suitable and since there were no casual labour in the Mechanical Department they were appointed ^{as substitutes} ~~attendant~~ with all the ~~accruing~~ benefits. A screening test was finally conducted on 25.6.88 for regular absorption. They have enough vacancies now. However, due to certain negotiations going on between the organised labour union and the administration the permanent negotiating machinery is ~~ceased~~ ^{seized} of the matter and it is only on completion of the negotiations that they would be able to absorb the applicants. They have also pointed out that according to the policy decision the intake of staff into the Carriage Repair Shop, Tirupati should be in the order of priority of optees from other departments followed by screening of suitable candidates from among the serving casual labour and if more persons are still required then only they have to resort to direct recruitment from the open market. The respondents submit that as of now there is no proposal to go to the open market for direct recruitment.

4. We have examined the case and heard the learned counsel for the applicants and the respondents. We find from a letter dated 9.4.87 (material paper 13) that the Chief Personnel Officer had stipulated three conditions for the applicants to be absorbed in the Mechanical Department:

- (a) that they will forego their claim for regularisation in the open line Group-D cadre.
- (b) that they are appointed first as substitutes, and
- (c) seek further regularisation in the same department as per rules in force.

5. In another letter dated 1.12.87 (material paper 14) the Chief Personnel Officer had stated that since the Revenue posts had been sanctioned the applicants may be considered for regular absorption after the prescribed screening. He had also added that in the meantime they may be allowed the benefits of fixation of pay from the date of absorption as substitute Khalasis provisionally subject to the condition that in case they are not found suitable on screening the over-payment made would be recovered from them. From the above it is clear that for the first time the screening was conducted only on 25.6.88. However, the results of this test have not been officially announced even 27 months after the test. This, according to the respondents, is due to certain high level negotiations going on between the administration and the organ

labour union.

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6. The applicants had quoted paras 2315 to 2319 and 2512 of the Indian Railway Establishment Manual stating that according to these, at the end of six months' continuous service they should be given all the rights and privileges admissible to the temporary Railway servants and they are entitled for regularisation according to the guidelines contained in these paras. We have seen these paras. There is no such indication that at the end of six months the substitute labour should be automatically regularised. On the other hand there is a note under para 2318 of the Indian Railway Establishment Manual that the conferment of temporary status on the substitutes on completion of six months continuous service will not entitle them to automatic absorption/appointment to railway service unless they are in turn for such appointment on the basis of the position in select list and/or they are selected in the approved manner for appointment to regular railway posts. Since, however, they have appeared for the regular screening test held in June, 1988 if they are successful they have a right for absorption subject to availability of vacancies. It was stated that a large number of vacancies had been created and the difficulty in filling them up was only on account of the negotiations going on between the administration and the organised labour union. The learned counsel for the applicants produced a letter No. TR/P-564 Cl. IV/Engg/Vol. II dated 29.6.89 by which some from among the applicants had been appointed with effect from 30.6.

To:

1. The Chief Project Manager, Carriage Repair workshop, Tirupati, Headquarter office, Mechanical Branch, Secunderabad.
2. The Chief personnel officer, Headquarter office, personnel Branch, S.C.Railway, Secunderabad.
3. The General Manager, south central railway, Secunderabad.
4. The Secretary, (Government of India) Ministry of Railways New Delhi.
5. One copy to Mr.V.Rama Rao, Advocate, 3-6-779, Himayatnagar, Hyderabad.
6. One copy to Mr.N.R.Devaraj, SC for Railways,CAT,Hyderabad.
7. One copy to Hon'ble Mr.R.Balasubramanian,Member:(Admn.) CAT.,Hyderabad.
8. One spare copy.

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We find from the order that these applicants were appointed to make up the shortfall in the SC/ST categories in Group-D ~~recruitment cadre~~. We, however, feel that the delay on the part of the respondents should not adversely affect the applicants if they are otherwise successful in the screening test conducted in June, 1988 the results of which are yet to be announced. We, therefore, order that in the event of their being successful in the screening test held on 25.6.88 and when they are absorbed regularly on completion of the negotiations between the administration and the organised labour union the applicant ^{notionally} shall all be treated as having been absorbed ~~with effect~~ from 25.6.88, the date on which their screening test was held. With the above direction the application is disposed of with no order as to costs.

MS
(J. Narasimha Murthy)
r(Judl).

R.Balasubramanian
(R. Balasubramanian)
Member(Admn).

Dated 22nd October 90

DR
R. DEPUTY REGISTRAR (J)
DEPUTY REGISTRAR (J)