

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

ORIGINAL APPLICATION NO.119 of 1990

DATE OF ORDER: 15th OCTOBER, 1990

BETWEEN:

Mr. M.A.Saleem

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Applicant

vs.

1. The Divisional Railway Manager (Meter Gauge),
South Central Railway,
Hyderabad.
2. The Divisional Railway Manager (Personnel),
S.C.Railway, Hyderabad.
3. The Loco Foreman, Lalaguda,
S.C.Railway, Secunderabad.

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Respondents

For Applicant : Mr. S.Lakshma Reddy, Advocate

For Respondents : Mr. N.R.Devaraj, SC for Railways

CORAM: Hon'ble Shri J.Narasimha Murthy, Member (Judl.)

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

JUDGMENT OF THE DIVISION BENCH DELIVERED BY THE HON'BLE
SHRI J.NARASIMHA MURTHY, MEMBER (JUDL.)

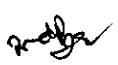
This is a petition filed by the petitioner for a relief to declare the action of the respondents in not regularising his services along with the others similarly placed on the basis of his length of service rendered as casual labourer during 1980 and 1982 and from 19.4.1984 to 18.8.1984 as illegal and violative of Articles 14, 16 and 21 of the Constitution of India and to direct the respondents



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to regularise the services of the applicant as Yard Khalasi forthwith. The contents of the petition are briefly as follows:-

The applicant has worked as casual labourer at Locoshed, Lalaguda, for 315 days during the period 1980-82 as shown in his service record. He was also employed again for over 4 months from 19.4.1984 to 18.8.1984. Along with other candidates, the applicant was also retrenched without following any procedure or giving any notice as contemplated under Section 25-F of the I.D.Act. But several other employees who were retrenched went to the Hon'ble High Court and obtained orders of stay. The applicant made representations to the respondents to take him to duty but the respondents did not take him to duty. In the year 1987 the respondents have put-up in the notice board calling candidates who have worked previously as ~~xx~~ casual labourers for regular absorption into Yard Khalasi. They have scrutinised the service records of all the candidates. The applicant's record was also scrutinised by the then A.P.O., Madhavaram, Loco Foreman, Office Superintendent, Personnel Inspector and Welfare Inspector on 24.11.1987. But no action was taken in respect of the applicant for regularising his services whereas several other juniors to him like Mr. C.Nityanandam, O.N.Yadagiri, Azizuddin, Syed Saifuddin and Mohd. Ahammadullah were absorbed as Y.K.Cs. The applicant submitted ~~xx~~ a representation in the month of October 1988 under endorsement made by the then A.P.O., Mr. Chandrasekhar complaining the injustice done to him. But thereafter also ^{there was} ~~no~~ response from the respondents. ~~was submitted~~ The applicant approached the office several times and finally he made a written representation dated 11.1.1990 through Loco Foreman to the respondents for regularising his casual service. In spite of his repeated representations to


the respondents, the respondents have not rectified the injustice done to the applicant. The respondents have not regularised the services of the applicant and the action of the respondents amounts to violation of Railway Board's instructions and also violation of Articles 14, 16 and 21 of the Constitution of India. Under these circumstances, the applicant has no other alternative remedy except to approach this Court and hence he filed the present petition.

2. The respondents in their counter raised the following contentions:-

At the outset, the respondents state that this Tribunal has no jurisdiction to entertain the petition as the applicant was never been employed by the South Central Railway. That being so the applicant is not a holder of any civil post under the Central Government more so in Railways, and this Tribunal has no jurisdiction to entertain the alleged grievance of the applicant. The applicant never worked as casual labourer in Loco Shed, Lalaguda and the casual labour service card submitted by the applicant is not a genuine one. It is true that several casual labourers of Loco Shed, Lalaguda were retrenched in August 1982 and some of them filed Writ Petition No. 9788 of 1982 and subsequently they were taken back on duty as per the directions given by the Hon'ble High Court of Andhra Pradesh. The applicant had never worked as casual labourer and therefore his retrenchment from service does not arise as alleged by him. The representation dated 11.1.1990 by the applicant has been received. While the same is under consideration of the respondent's office, the applicant approached this Tribunal by way of O.A. While admitting the O.A., this Tribunal passed interim orders,



holding that the admission of this case will not preclude the Department from going on with the investigation and file a criminal complaint if it was warranted. Accordingly, a thorough investigation has been made by the Vigilance Branch of South Central Railway and it is found that the applicant's claim is not based on any record and the casual labour service card produced by him is not genuine. In this regard, the Loco Foreman, Lalaguda has addressed a letter on 21.2.1990 stating that the applicant had not worked as casual labourer during the period from 1.3.1980 to 30.6.1982. As per the records maintained in the office to that effect, no casual labour service card was issued by the Loco Foreman, Lalaguda. The contention of the applicant that he had submitted an application to the APO (Mechanical) is not correct. It is true that C.Nityanandam, O.N.Yadagiri, Azeezuddin, Syed Saifuddin and Md. Ahmadullah were retrained ex.casual labourers at Loco Shed, Lalaguda and were taken back on duty as substitute Khalasis vide letter dated 3.11.1982 and later regularised as temporary Khalasis vide letter dated 7.11.1984. However, the applicant cannot get any benefit on par with the above casual labourers as he was never in employment with the South Central Railway as clarified by the Loco Foreman, Lalaguda in his letter dated 21.2.1990. As long as the applicant's claim is not correct on any authentic record, it cannot be entertained for engagement or regularisation of his alleged casual labourer's service. Therefore, no relief can be extended to the applicant in view of his bogus claim. Hence, the petition is liable to be dismissed.



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3. The learned Advocate for the petitioner and Shri N.R. Devaraj, learned Standing Counsel for the Railways/respondents argued the matter. The petitioner filed a xerox copy of the service card and it shows that he worked in three spells, one from 1.3.1980 to 30.5.1980 and another spell from 19.3.81 to 17.10.1981 and the 3rd spell being from 1.12.1981 to 30.6.1982. We perused the records relating to the Musters and also acquittance registers during these periods. We are able to find out the names of the persons who have said to be worked along with the petitioner i.e., C.Nityanandam, O.N. Yadagiri, Azeezuddin, Syed Saifuddin and Mohd. Ahmudullah. Their names are found in the attendance registers and ~~another~~ acquittance registers whereas the name of the petitioner is not found any-where in these records. Moreover, the petitioner^{has} put ~~his~~ thumb impression on the service card whereas he signed in neat english on the application filed in this Tribunal. So, it throws a clear doubt whether the petitioner is the person who is the holder of this service card. Moreover, if he got a better claim, he ought to have approached the High Court or the Department then and there itself. He did not figure himself anywhere either in the High Court or any appeal is filed before the Department. The petitioner stated that he filed a petition before the Department but the respondents state that he never sent any petition except the last petition that was sent on 11.1.1990. The respondents pointed out in their counter that an investigation has been made by the Vigilance Branch of the South Central Railway into the matter and it was found that the applicant's name is not found in the records and the casual labourer service card produced by the applicant is not genuine one.

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To:

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1. The Divisional Railway Manager (Meter Gauge),
South central railway, Hyderabad.
2. The Divisional Railway Manager (Personnel), S.C.
Railways, Hyderabad.
3. The Loco Foreman, Lalaguda, S.C. Railway, Secunderabad.
4. One copy to Mr. S. Lakshma Reddy, Advocate, Advocates'
Association, High Court Buildings, Hyderabad.
5. One copy to Mr. N. R. Devaraj, SC for Railways, CAT, Hyderabad.
6. One spare copy
7. One copy to Hon'ble Mr. J. Narasimha Murthy, Member (J)
CAT., Hyderabad. . . .

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Handwritten signature and date
22/10/20

4. If really the contention of the petitioner is genuine one and if he really worked during these years, his name would have certainly found a place either in the attendance registers or in the acquittance registers in those particular years of 1980 to 1982. Nowhere his name is found. But other names were found in the registers. Secondly, the service card contains the thumb impression of the petitioner and he did not sign in the card whereas in the petition filed before the Tribunal, the petitioner signed in neat english and so the genuineness of the card throws a doubt. The person who said to have given the card has denied that during that period, no card was given to the petitioner and the petitioner except alleging that he worked for over 315 days produced no other evidence to show that his card is a genuine card. So, for these reasons, we are unable to agree with the contention of the petitioner and there is no substantial evidence to show that the card is a genuine card. We accordingly hold that there are no merits in this petition and dismiss the petition without costs.

MS

(J. NARASIMHA MURTHY)
Member (Judl.)

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

Dated: 15/10 October, 1990.

[Signature]
for DEPUTY REGISTRAR (J)