

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD
BENCH : AT HYDERABAD

O.A.No. 3 of 1991

Dt. of Decision: 12-4-91

Between:-

1. K.Ravi
2. M.Surya Rao
3. O.Venkateswarlu
4. Ch.Govind
5. T.Gangamma
6. E.Kotamma
7. D.Venkateswarlu
8. K.Venkateswara Rao
9. M.Ganeshan .. Applicants

and

1. Senior Divisional Commercial Superintendent, South Central Railway, Vijayawada.
2. The General Manager, South Central Railway, Rail Nilayam, Secunderabad. .. Respondents

Appearance:

For the applicants : Shri G.V.Subba Rao, Advocate.

For the respondents : Shri N.V.Ramana, Standing Counsel for Railways.

CORAM:

THE HONOURABLE SHRI B.N.JAYASIMHA, VICE-CHAIRMAN.

THE HONOURABLE SHRI D.SURYA RAO, MEMBER(JUDICIAL).

(ORDER OF THE DIVISION BENCH DELIVERED BY HONOURABLE)
SHRI D.SURYA RAO, MEMBER(J).

1. The applicants herein are ex-Cleaners working in the Railway Canteen at Ongole and Gudur under the Senior Divisional Commercial Superintendent, South Central Railway,

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Vijayawada. It is their case that the Supreme Court had in a Writ Petition filed by certain Cleaners of Southern Railway, directed the Southern Railway to abolish the contract labour system which was prevailing in the Railway Canteens and to regularise the services of the Cleaners working in the Catering Establishment and Pantry Cars in the Southern Railway. Pursuant to this Judgement, the Central Government abolished the contract labour in Railways. The applicants state that consequent on abolition, the contract cleaners are deemed to be Railway employees, either casual labour or regular employees w.e.f. 28-7-1987. The applicants state that after 28.7.87 the Senior Divisional Commercial Superintendent, Vijayawada, published seniority lists of cleaners working in the departmental units by his letter No.B/C.75/Catering Policy/Cleaning, dated 26-4-1989 under the contractor, who had taken up the contract at Ongole and Gudur. It is alleged that the seniority list has ignored long service put in by the applicants. Consequently the Senior DCS directed the Refreshment Room Managers to send the applicants for screening on 5-9-1989 and 6-9-1989. No qualifications have been prescribed since the General Manager by a letter dated 13-7-1990 had waived the literacy qualification. After screening, the Sr.DCS, Vijayawada, published the list of candidates, who were screened and selected by the Screening Committee on 4-12-1990. In this list 8 candidates belonging to Ongole unit and 9 candidates belonging to Gudur unit were declared selected but the applicants names were not included. They state that despite being eligible, they were not included in the select list. It is further contended that the Sr.DCS, Vijayawada, should absorb all contract labour who were in service as on the date of screening, into railway

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service. The applicants state that from 15.12.1990 they were instructed not to attend duty. They submitted a representation on the same date to the Sr.D.C.S., Vijayawada, but no action was taken by him on the said representation. It is alleged that by not absorbing the applicants, they have been discriminated and therefore they have filed the present application. In this application they pray for a direction to the respondents to continue their services as regular cleaners in the departmental catering units of the Railway by declaring the stoppage of applicants from work w.e.f. 15-12-1990 as arbitrary, illegal and unconstitutional and violative of Articles 14 and 16 of the Constitution.

2. On behalf of the respondents (Railways) a counter has been filed stating that the applicants, if aggrieved, could have approached the Labour Court. It is stated that the Supreme Court in the cases relating to Southern Railway had, while directing abolition of contract labour, had further ordered that if there is any dispute about the individual workmen, such disputes shall be decided by the Deputy Labour Commissioner, Madras. It is, therefore, contended that the proper forum is only the Commissioner of Labour or the Labour Court under the Industrial Disputes Act.

3. We have heard Shri G.V.Subba Rao, learned Counsel for the applicant, and Shri N.V.Ramana, learned Standing Counsel for Railways.

4. The first objection raised by Sri N.V.Ramana is that the application is not maintainable since this Tribunal

has no jurisdiction to grant the relief prayed for. We are unable to agree with this contention. The applicants are seeking absorption in the Railways either as Casual Labour or ^{regular} Group-D employees in the catering establishment of the Railways on the strength of their having worked as Cleaners in the Railway Canteens/Pantry Cars both prior to the abolition of contract labour system and afterwards. They are claiming that other similarly situated persons have been absorbed whereas they have been discriminated against and are not being absorbed. It is well established that this Tribunal has jurisdiction to determine disputes arising in regard to recruitment of employees by virtue of section 14 of the Administrative Tribunals Act. The dispute in the instant case raised is in regard to the right of the applicants to recruitment and hence it cannot be said that this Tribunal has no jurisdiction to entertain the application.

5. The next question is whether the application is to be entertained at this stage. The applicants have already made a representation on 15.12.1990 complaining that they were not selected as a result of the screening when their juniors were selected and that they have been removed from service and deprived of their livelihood w.e.f. 15-12-1990. This representation is enclosed as an annexure to the application before us. It is clear therefore that the applicants have sought the remedy of making a representation on 15.12.1990 before approaching this Tribunal. Without waiting for the disposal of the said representation, the applicants rushed to this Tribunal on 1-1-1991 claiming for the reliefs as prayed for in the representation. Under section 20 of the Administrative

Tribunals Act 1985 a period of 6 months is available to the departmental authority to whom a representation has been made for disposing of the same. The applicants have rushed to this Tribunal even before expiry of the period of 6 months. The application is therefore clearly premature and barred under section 20 of the Administrative Tribunals Act. We accordingly dismiss the application as premature. The respondent No.2, to whom the applicants made a representation dated 15-12-1990, is directed to dispose of the said representation within 2 months from the date of receipt of this order. With this direction the application is dismissed as premature. No order as to costs.

B.N. Jayasimha
(B.N.JAYASIMHA)
VICE-CHAIRMAN

D. Surya Rao
(D.SURYA RAO)
MEMBER (JUDICIAL)

Date:

[Signature]
Deputy Registrar(Judl)

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1. The Senior Divisional Commercial Superintendent,
nsr South Central Railway, vijayawada.
2. The General Manager, South Central Railway,
Railnilayam, Secunderabad.
3. One copy to Mr.G.v.Subbarao, Advocate, CAT.Hyd.Bench.
4. One copy to Mr. N.v.Ramana, SC for Railways, CAT.Hyd.
5. One spare copy.

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