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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH  
AT HYDERABAD.

O.A.No.1054/91.

Date of Judgment 12.2.1992

1. Ketron
2. D.Pullaiah
3. Santharam
4. Bharath Durga
5. Thularam
6. Raja Ram
7. Boti
8. Nidhan
9. P.Ramanaiah
10. S.Chennaiah
11. K.Subba Rao S/o Venkaiah
12. A.Bhaskara Rao
13. Mahadev
14. M.Venkaiah
15. P.Adinarayana Rao
16. Dara Ramulu
17. M.Malakondaiah
18. K.Subba Rao S/o Boyanna
19. K.Ramanaiah .. Applicants

Vs.

1. Chief Personnel Officer,  
S.C.Rly., Secunderabad.
2. Sr. Divl. Personnel Officer,  
S.C.Rly., Vijaywada.
3. Asst. Engineer,  
S.C.Rly., Ongole.
4. ~~Permanent~~ Way Inspector,  
S.C.Rly., Ongole. .. Respondents

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Counsel for the Applicants : Shri P.Krishna Reddy

Counsel for the Respondents : Shri N.V.Ramana, SC for Rlys-

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CORAM:

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

Hon'ble Shri C.J.Roy : Member(J)

[ Judgment as per Hon'ble Shri R.Balasubramanian,  
Member(A) ]

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This application has been filed by Shri Ketron & 18 others against the Chief Personnel Officer, S.C.Rly., Secunderabad & 3 others under section 19 of the Administrative Tribunals Act, 1985. The relief sought is to direct the respondents to fill up the ~~posts~~ of 22 vacancies allotted <sup>to</sup> to the unit of the 4th respondent

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taking into consideration the combined seniority of the applicants and other Casual Labours who were transferred from the CTR Organisation on 10.8.87 and the seniority of Casual Labours already working in the unit of the 4th respondent.

2. The applicants are now working as Casual Mazdoors under P.W.I. Ongole and have attained temporary status. Initially they joined the Railways as Casual Mazdoors under P.W.I./CTR/Bitragunta and Head Clerk Stores, CTR/Bitragunta. On completion of the six months' service as casual workers they were given the temporary status in the year 1982. By an order dated 10.8.87 all the applicants were transferred to the Asst. Engineer, Ongole Sub Division and they were allotted to P.W.I. Ongole. On 20.9.91, the Asst. Engineer, S.C.Rly., Ongole published a seniority list of A.P.S. men working under the control of P.W.I. Ongole. In spite of the fact that the applicants are working in the unit of P.W.I. Ongole from 10.8.87 their seniority was shown separately as CTR staff due to their having working<sup>ed</sup> initially in the CTR Organisation at Bitragunta. The applicants contend that there is no justification for such segregation because the CTR Organisation is also part and parcel of the maintenance work, because replacement of rails is a part of maintenance division. It is argued that the CTR Organisation is not in the nature of a 'Project'. It is their contention that once a person acquires a temporary status even if he is transferred by the Administration he does not lose his temporary status. The Railway Board sanctioned a number of regular Class I posts for the purpose of decasualisation. Some<sup>From Nine</sup> of the<sup>22</sup> applicants were called to attend the screening held on 25.10.91. Excepting the 1st applicant and one Mr. Rucko all other Casual Labours who were asked to appear

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for screening were not allowed to participate in the screening in spite of there being so many vacancies. It is the contention of the applicants that the respondents ought to have regularised them without making any distinction between those already in the unit of P.W.I. Ongole and persons like the applicants who had come to Ongole from the CTR Organisation. Aggrieved, they have approached this Tribunal with the above application.

3. The respondents have filed a counter affidavit and oppose the application. It is pointed out that according to rules they have to maintain separate gradation lists for Casual Labour - one for the Open Line and the other for those who had come from the Project Construction. The two have to be separate entities. For attaining temporary status the criteria are different for these two sets of Casual workers. Whereas only 120 days service is required for an Open Line Casual Labour to attain temporary status, for a Casual Labour in the Project Construction he is required to put in 360 days service to attain temporary status. They also refute the contention of the applicants that the CTR Organisation is part of maintenance division. The classification of Project Work is to be done in each case by the competent authority. It is contended that when the CTR Organisation work was completed, instead of retrenching the staff they were sent to P.W.I. Ongole for work there. According to para 2004 of Indian Railway Establishment Manual Vol.II such Casual Labour diverted from CTR Bitragunta to P.W.I. Ongole should rank juniormost to the existing Casual Labour under P.W.I. Ongole as on 10.8.87 i.e., when the transfer was effected. It is also pointed out that for regularisation, the ratio of 1:2 for the Project Labour and Regular Casual Labour should be adopted. It was in accordance with this policy that a letter was issued on 21.11.91 by the Divl. Rly. Manager, Vijaywada apportioning the total vacancies of 22 as 7 to CTR Casual Labour and 15 to Regular Casual Labour. In view of this,

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therefore, they want the application to be dismissed.

4. The applicants have submitted written arguments subsequently. It is stated that in 1983 some casual employees who were senior to the applicants herein working under PWI/CTR were sought to be absorbed in the 4 units of PWIs viz: PWI/ONG, PWI/BTTR, PWI/BTTR, PWI/Kavali and PWI/NLR by screening. As far as the Casual Labour working under PWI/ONG, PWI/Kavali and PWI/NLR, they did not object for the joint screening of the Casual Labour coming from PWI/CTR/BTTR alongwith them. However, the Casual Labour working under PWI/BTTR (Open Line) filed a Writ Petition in the High Court of Andhra Pradesh. In that case, the Railway Administration is stated to have filed a counter supporting the preparation of a combined seniority list comprising of both Open Line Casual Labour and CTR Casual Labour. The judgment and the subsequent appeal are stated to have gone in favour of a combined list. It is also stated that the Railway Administration at that time depended on a Railway Board letter No.E(NG)II-77/CL/46 dated 8.6.81. The extract produced from that letter is as follows:

"continuous service, whether on the open line in the division or on the adjacent construction project should be listed for screening and the seniority should be fixed by reckoning their previous spells of employment on the basis of such cumulative aggregate service. Casual Labour who have not been re-engaged will also be considered for employment/screening based on the length of their employment prior to the date of discharge"---

It is further stated that the Railway Administration acted on the basis of combined gradation list comprising both of Open Line Casual Labour and Casual Labour from the CTR Organisation. It is the argument of the applicants that the same procedure should be followed now also.

5. We have examined the case and heard the learned counsels for both sides. When labour from one unit is diverted to another as in this case, such staff have to be

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placed at the bottom of the list of persons in the same cadre in the new unit as on the date of transfer. This is in accordance with Rule 2004 of Indian Railway Establishment Manual Vol.II. Generally, over the same span of time, Casual Labour will be able to put in more days of work than their counterparts in the Open Line. This is because Project Works are time-bound and are intensive in nature during the Project Work. It is perhaps for this reason that eligibility conditions for certain benefits like conferring temporary status etc., for Project staff are different from those for Open Line Casual Labour. If common seniority combining this type of staff with regular maintenance staff is prepared, it would adversely affect the Open Line Casual Labour for no fault of theirs, more so when the Project Casual Labour are brought into Open Line to avoid retrenchment. At the same time, Project Casual Labour placed at the bottom of the seniority list should also not suffer unduly ignoring the service they had rendered to the Railways. The ratio of 1:2 for Project Casual Labour to Open Line Casual Labour, is, therefore, a compromise formula in which we see no illegality. Hence, preparing two gradation lists and fixing a quota are not, in our opinion, unreasonable. It is on this basis that by letter dated 21.11.91, 7 posts out of 22 are allocated for the CTR staff.

6. We have seen the extract from the Railway Board letter of 8.6.81 reproduced by the applicants, (Para 4). It only states that continuous service whether on the Open Line in the Division or in the adjacent Construction Project should be taken into account for screening. A combined seniority comprising of Open Line Casual Labour and Project Casual Labour is not indicated. What it should be taken to mean is that in the separate gradation list for Project Casual Labour, the total service both on the Open Line and Project should be taken into account and that should be

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the criterion for interse seniority among the Project Casual Labour. The applicants have not shown any rule which states that a common gradation list combining both Open Line Casual Labour and the Project Casual Labour should be prepared. The full circumstances of the case before the Andhra Pradesh High Court are also not available to us. Rule 2004 of the Indian Railway Establishment Manual Vol.II clearly states that when Casual Labour is diverted from one unit to another they will rank juniormost in the new unit i.e., when the CTR Casual Labour were diverted to the PWI/ONG on 10.8.87 they should en bloc be placed below all the Casual Labour already in the unit of PWI/ONG arranged of course in the order of the total number of days they had put in. This is what a combined seniority list will be. In such a case, the Project Casual Labour may not get any of the 22 posts. It is in this context that a quota for them becomes necessary. The applicants contend that the quota system is applicable where Project Casual Labour are considered for regularisation when they are working in the Project and not when they had already moved over to the Open Line. But, as stated earlier, if they have to be treated as Open Line Casual Labour only, then the heavy loss in seniority operates to their disadvantage.

7. We have also seen whether the proposal of the respondents would cause undue hardship to the CTR Casual Labour who had joined the PWI/ONG unit. By adopting the quota 1:2 as referred to in para 5, we find that there is very little hardship to the Project Casual Labour who had put in longer service than the Open Line staff. If the application is allowed to the advantage of the CTR Casual Labour, then 7 Open Line Casual Labour who had been engaged between the years 1977-78 cannot be regularised in this lot.

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On the other hand, if the application is dismissed, then 8 Casual Labour from the CTR Organisation with only 2 engaged initially from August, 1976 and the others from 1977-78 cannot be regularised. Thus, one way or the other, the ~~people~~<sup>persons</sup> adversely affected have all been initially engaged from about the same time.

8. Under these circumstances, we find no reason, particularly in the absence of any statutory rule requiring a combined seniority list, to interfere and we accordingly dismiss the application with no order as to costs.

R. Balasubramanian  
( R. Balasubramanian )  
Member (A).

C. J. Roy  
( C. J. Roy )  
Member (J).

Dated 12<sup>th</sup> February, 1992.

S. S. S. S. S.  
3/2/92  
Deputy Registrar (J)

To LB

1. The Chief Personnel Officer, S.C.Rly, Secunderabad.
2. The Sr. Divisional Personnel Officer, S.C.Rly. Vijayawada.
3. The Assistant Engineer, S.C.Rly, Ongole.
4. The Permanent Way Inspector, S.C.Rly, Ongole.
5. One copy to Mr. P. Krishna Reddy, Advocate, CAT. Hyd.
6. One copy to Mr. N. V. Ramana, SC for Rlys, CAT. Hyd.
7. One copy to Deputy Registrar (J) CAT, Hyderabad.
8. One spare copy.

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TYPED BY \_\_\_\_\_ COMPARED BY \_\_\_\_\_  
CHECKED BY \_\_\_\_\_ APPROVED BY \_\_\_\_\_

To be typed

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR. \_\_\_\_\_ V.C.

THE HON'BLE MR. R. BALASUBRAMANIAN: M(A)

AND

THE HON'BLE MR. T. CHANDRASEKHAR REDDY:  
M(JUDL)

AND

THE HON'BLE MR. C. J. ROY : MEMBER (JUDL)

DATED: 12-2-1992

~~ORDER~~ JUDGMENT:

P.A./C.A./M.A. No.

in

O.A.No. 1054/91 ✓

T.A.No.

(W.P.No.)

Admitted and interim directions  
issued.

Allowed

Disposed of with directions.

Dismissed ✓

Dismissed as withdrawn

Dismissed for default.

M.A. Ordered/ Rejected

No order as to costs.

pvt.

Central Administrative Tribunal  
DESPATCH  
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HYDERABAD BENCH.