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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

D.A.No. 1166/91.

xxxxxx.

Dt. of Decision: 4-11-92

K.Ravi & 8 others

Petitioner

Shri G.V. Subba Rao

Advocate for
the Petitioner
(s)

Versus

Sr. Divl. Comml. Supdt., S.C.Rly., Vijaywada Respondent.
& 2 others

Shri J.R. Gopal Rao,
SC for Railways

Advocate for
the Respondent
(s)

CORAM:

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

THE HON'BLE MR. C.J.Roy : Member (J)

1. Whether Reporters of local papers may be allowed to see the judgment? Yes
2. To be referred to the Reporters or not? Yes
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.)

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HRBS
M(A). HCJR
M(J).

I Judgement as per Hon'ble Shri R.Balasubramanian, Member(A)

This application is filed under section 19 of the Administrative Tribunals Act, 1985 with a prayer to direct the respondents to continue the applicants' services as Catering Cleaners in the Departmental Catering Units/Pantry Cars and to absorb them initially as Casual Labours and subsequently regularise them.

2. The applicants were employed as Contract Cleaners. Similarly placed Cleaners of Southern Railway filed a case in the Supreme Court. Pursuant to the judgement, the Railway Board issued orders abolishing the contract labour system. The Govt. of India, Ministry of Labour also issued a notification on 28.7.87 prohibiting employment of contract labour in the Railways with effect from that date. The South Central Railway, however, continued the system till 15.12.90. The Sr. Divl. Commr. Supdt., Vijaywada published a seniority list of Cleaners vide his letter dt. 26.4.89. The list was as in February, 1989. He also conducted screening and published a list of erstwhile contract labour who were found suitable for engagement as casual labour, in Rlys. The list did not include the names of the applicants. The letter also indicated action to be taken by the Catering Units. It is also stated that from 15.12.90, the applicants were orally told not to come for work, while a number of persons junior to them were continued. The applicants also claim temporary status and regularisation. Their representations to the respondents were in vain and hence this O.A.

The bio-data certified by the concerned was the main material before them. Their seniority for the job was also assessed. Overaged persons, persons not having the literacy qualification and those who joined after 28.7.87 were excluded and a select list was issued. Subsequently when the literacy requirement was waived, 37 more were included. It was then decided that a total of 120 persons were to be taken as casual labour in the 7 units (Gudur, Bitragunta, Ongole, Tenali, Vijaywada, Rajahmundry and Samalkot) of the Vijaywada Division.

5. We are mostly satisfied with the manner in which the respondents had gone about after the decision to abolish the contract labour system in certain units except their decision to exclude those who joined after 28.7.87, which requires further examination. The contract labour system was abolished w.e.f. 28.7.87. But, for their ^(S.C.Rly) own reasons, the system continued long after that too. For this, those who worked as contract labour after 28.7.87 should not suffer. The Railways are bound to screen such labour also, in the same manner as those who were serving before 28.7.87. The Railways could not terminate the contract labour system on 28.7.87 and the continuation of the system, for whatever reasons, throws on them the responsibility to consider their cases ^{too}.

6. We, therefore, direct the respondents to consider the cases of all contract labour engaged after 28.7.87 also in the same manner as others and prepare a revised list upto the date when the contract labour system was actually terminated. This should be the list of contract labour converted into the casual labour list of Railways for future action. We disposed of the O.A. accordingly with no order as to costs.

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

Dated: 4th November, 1992.

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

Deputy Secretary (Jn. d.)

3. The respondents oppose the O.A. and have filed a counter. The contractors were changed from time to time and there were frequent changes of labourers along with changes of contractors. Hence it is denied that the labourers had very long service. When the contract labour system was abolished, the Chief Personnel Officer fixed some norms like age, literacy and the service upto 27.7.87 i.e., date of abolition of contract labour, for taking the contract labour on the strength of the Railways. The labourers were asked to furnish their bio-data which were certified by the contractor and the Catering Manager. A screening was conducted. A seniority list was published inviting objections, if any. No objection was received. By a subsequent decision taken by the General Manager the literacy requirement was waived. Thereafter, the impugned list was prepared. Some of the applicants were overaged and some of them had joined after 27.7.87. These were not included in the list. Their names were not included in the panel. Hence, according to them the instructions issued pursuant to the Supreme Court decision, had been carried out.

4. We have examined the case including the Railway records and heard the rival sides. Consequent to the judgement of Supreme Court, the Government abolished the contract labour system in the catering establishments and pantry cars of the Railways w.e.f. 28.7.87. But the follow up action by the South Central Railway took over 3 years till 15.12.90. We see from the Railway records that a Screening Committee comprising of three officers was set up and they screened the erstwhile contract labour on 5.9.89, 6.9.89 and 20.9.89.

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Copy to:-

1. Senior Divisional Commercial Superintendent, South Central Railway, Vijayawada.
2. The General Manager, South Central Railway, Rail Nilayam Secunderabad.
3. Secretary, Member(Estt), Railway Board, Rail Bhavan, Union of India, New Delhi.
4. One copy to Sri. G.V. Subba Rao, advocate, CAT, Hyd.
5. One copy to Sri. J.R. Gopala Rao, SC for Railways, CAT, Hyd.
6. One copy to Deputy Registrar(Judl.), CAT, Hyd.
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