

(2)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
AT HYDERABAD

Original Application No. 1992

Between:

S.Bikshapathi  
and another

.. Applicants

and

Union of India resptd. by  
General Manager, South  
Central Railway, Secunderabad  
and another

.. Respondents

DETAILS OF APPLICATION

- |                                     |   |
|-------------------------------------|---|
| I. Name of the Applicants           | 1. S.Bikshapathi S/o.<br>Malli aged 30 years  |
| II. Name of the Father              | 2. S.Venkataiah S/o.<br>Yellaiah aged 31 years  |
| III. Age of the Applicants          | 1. S.Bikshapathi aged 30 years<br>2. S.Venkataiah 31 years  |
| IV. Designation and particulars     | Casual Labourers<br>under Station Superintendent<br>Secunderabad Railway Station<br>SC Railway  |
| V. Office Address                   | As stated above   |
| VI. Address for services of notices | As stated above and that of<br>their Counsel<br>Sri V.Krishna Rao<br>Advocate<br>12-11-1444<br>Boudhanagar<br>Secunderabad 500 361.   |
| 2. Particulars of Respondents       | 1. Union of India<br>reptd. by General Manager<br>S.C. Railway, Secunderabad.<br><br>2. The Divisional Railway<br>Manager<br>Secunderabad & Division<br>South Central Railway<br>Secunderabad<br><br>Address for services of<br>notices as above. |

⑥

3. Particulars of the order against application is made

The applicants made representation dated 12.7.1991 requesting to regularise their services as Casual Labourers and also grant all consequential benefits accrued to them under the extant rules but no reply is received. Hence this application.

4. Jurisdiction of the Tribunal

The applicants declare that the subject matter of the application is within the jurisdiction of the Hon'ble Tribunal under section 14 of the Administrative Tribunal Act 1985. In this application the applicants are seeking a direction to regularise their services as casual labourers and give all consequential benefits under the extant rules.

5. Limitation

The applicants further declare that this application is within limitation prescribed under Section 21 (1) b of the Administrative Tribunal Act 1985.

6. (a) The Applicants respectfully submit that they were appointed as Casual Labourers on 8.10.85 and utilised in the vacancies of Secunderabad Railway station (operating) as M.Raju, Muttiah and gafoor permanent Casual labourers have been transferred and in their place they have been working as Box Boys, call boys and Mashals etc., the first applicant completed 126 days by 31.3.1986 and the second applicant completed 126 days by 30.4.1986 but they are not given temporary status though requisite number of 120 days for giving temporary status has <sup>ee</sup>exceeded. The applicants are paid rates of Rs.1

(7)

even now though they are entitled to be paid Rs.25/- per day as minimum wage as per the gazetted notification by the collector, Hyderabad. Though the station Superintendent, Secunderabad vide his letter No.SS/6/E1/6 dated 13.10.1991 had written to the senior Divisional Personnel officer S.C.Railway Secunderabad that daily rate of unskilled worker was fixed at Rs.25/- per day for NMRs engaged by Government Departments as per the notification no. B1/711/91 dated 3.6.1991 issued by the District Collector, Ranga Reddy District for the year 1991-1992, no action is taken and the applicants are being paid Rs.10/- per day. The Applicants are entitled to get temporary status after completion of 120 days service and fixed in the grade of Rs. 740-950 and then regularised on par with other casual labourers.

- (b) The applicants submit that though permanent vacancies of casual labour exist in the operating department and the applicants had completed 120 days of service long time ago inspite of artificial breaks now and then, they should have been given temporary status and regularised by this time and also paid minimum wages.
- (c) The Applicants gave representation to the second respondent on 12.7.91 drawing his attention that the applicants were not given temporary status after completion of 120 days and also that they are not paid the minimum wages of Rs.25/- as per the notification of the District Collector, RR District but their representation did not avoke any response.

(d) The applicants submit that casual labour on completion of 120 days continuous service either in the same work for which they are employed or other work of the same type will be treated as temporary employees. Casual labour thus treated as temporary are entitled to all rights and privileges admissible to temporary Railway employees viz revised scales of pay in terms of Railway Board's letter No.E(NE) 11/84/CC/58 of 20.12.85, earning of increments, compensatory and local allowances dearness allowance, medical facilities, leave P.F. facilities, passes/PTOs 3 national holidays and 6 additional holidays as admissible to <sup>line</sup> ~~live~~ staff 15 days casual leave etc. as well as hospital leave on being hospitalised for any actual injury while on duty.

(E) As per Railway Board letter No.E(NE) 11-77/CL/46 dated 18.11.81, the Casual labour who have attained the temporary status and have been paid regular scale of pay, when reemployed after having been discharged earlier on completion of work or for further productive work may be started on the pay last drawn by them. In terms of para 2501 chapter XXV as per note No4 of Indian Establishment Manual casual labour should not be deliberately discharged with a view to causing artificial break in their service and thus prevent their attaining temporary status. But for the artificial breaks, the applicants could not

complete 120 days and also by giving overtime to permanent employees and not giving regular duties to the applicants. The unfair labour practice adopted by respondent No.2 still kept the applicants as casual labourers without even temporary status while their erstwhile colleagues became permanent and became eligible for all benefits under the rules. The action of the respondent No.2 in not making the Applicants permanent even after completion of 6 years is discriminatory, arbitrary and illegal. The action of the respondents in not allowing them the applicants to complete 120 continuous service will be considered as unfair labour practice as per Punjab and Haryana of High Court decision in Kapurthala Central Coop Bank Ltd. Vs presiding office labour court 1984 (2) Industrial Labour cases page 974.

7. Details of remedies exhausted

The applicants state that they have sent representation dated 12.7.91 to the second respondent but without response. Hence this application.

8. Matters not previously filed or pending with any other Court

The applicants further declare that they had not previously filed any application writ petition or suit regarding the matter of which this application has been made before any Court of Law or any other authority or any other Bench of the Tribunal or any such application writ petition or suit is pending before any of them.

(10)

9. Relief sought

In view of the facts stated above, the Applicants, pray that the Hon'ble Tribunal may be pleased to direct the respondents to give temporary status and scale of pay from the day they have completed 120 days and give all consequential benefits to them and also regularise their services as casual labourers as per extant rules.

10. Interim relief if any prayed for

The applicants pray that the Hon'ble Tribunal may be pleased to fix an early date for hearing of the application as the applicants are sustaining heavy loss in emoluments and direct the respondents to give them temporary status.

11. In the event of the application being sent by Registered post it may be stated whether the Applicant desire to have oral hearing at the admission state.

Not applicable

12. Particulars of postal order in respect of application fee

1. Name of the postal order B. 03 924037 218-2-92  
mts 50/-
2. Name of issuing post office
3. Date of issue of postal order
4. Post office at which payable

LP.O./B.C./O.D./Removed

13. List of enclosures

1. Vakalat
2. Indian Postal order
3. Material papers

(10)

VERIFICATION

We, S.Bikshapathi son of Malli aged 30 years  
2) S.Venkatiah son of Yellaiah aged 31 years working  
as Casual Labourers under the control of the Station  
Superintendent, S.C.Railway, Secunderabad Station  
and residents of Secunderabad do hereby verify  
that the contents of the above paragraphs are true to  
our personal knowledge and that we have not suppressed any material facts.

HYDERABAD

17.2.1992



L.T.O of S. Bikshapathi  
Signature of the applicant



L.T.O of S. Venkatiah  
Signature of the applicant

*Hei...*  
Signature of the Council