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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH : AT HYDERABAD.

* * *

O.A. No. 1566/93

Dt. of Decision 31.3.94

Kundurthi Ankaiah

.. Applicant

Vs

1. Union of India, per
General Manager
South Central Railway
Secunderabad.
2. The Divisional Railway
Manager (P) South
Central Railway
Vijayawada.
3. The Sr. Divisional
Engineer (South)
South Central Railway
Vijayawada.
4. The Assistant Engineer
South Central Railway
Tuni.
5. Permanent Way Inspector
South Central Railway
Tuni

.. Respondents.

Counsel for the Applicant : Mr. P. Bhaskar Mohan

Counsel for the Respondents : Mr. N.R. Devaraj, Sr. CGSC

CORAM:

THE HON'BLE JUSTICE SHRI V. NEELADRI RAO : VICE CHAIRMAN

THE HON'BLE SHRI R. RANGARAJAN : MEMBER (ADMN.)

O.A.NO.1566/93.

JUDGMENT

Dt: 31.3.94.

(AS PER HON'BLE SHRI JUSTICE V.NEELADRI RAO, VICE CHAIRMAN)

Heard Shri P.Bhaskara Mohan, learned counsel for the applicant and Shri N.R.Devaraj, learned standing counsel for the respondents.

2. The applicant was engaged as casual labour Gangman on 11.4.1980. When he had undergone cataract operation in 1986, the applicant was medically decategorised for B-I category and he was discharged from service. This OA was filed praying for a direction to the respondents to immediately provide alternative employment to the applicant and for ~~xxx~~ payment of back wages and other benefits and for reckoning his previous service for his future retirement benefits, seniority and other pensionary benefits.

3. The applicant is relying upon ^{Rule} 2005 (a) of Indian Railway Establishment Manual Volume-II to urge that the casual labour treated as temporary are entitled to the rights and benefits admissible to temporary railway servants as laid down in Chapter XIII (Chapter XXIII is a mistake). Rule 1304 (b) of IREM lays down that ^{in regard to} temporary railway servant in Group (ii) of Para 1302 of IREM who had become medically unfit for the post held by him on account of the circumstances arising out of and in the course of his employment, the benefit admissible to permanent railway servants as at ~~xxx~~ Para 1304(a) should be given. It lays down

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if a that/temporary employee becomes medically unfit for the post held by him, on account of circumstances which did not arise out of and in the course of his employment, the benefit of Rule 304 RI (of Fifth Edition 1985) will not be admissible. But it also adds that though it is not obligatory to find alternative employment for such an employee, every effort should, nevertheless, be made to find alternative employment. It is urged that in view of the same, the respondents have to make every effort to find alternative employment to the applicant.

4. The respondents are relying upon Rule 2005, of para 4(b) of the IREM Volume-II. But there is only Rule 2005 Para (b) and it does not have any bearing for consideration of this point. Rule 2007 is applicable in regard to the casual labour skilled. The post of Gangman is not a skilled one. Thus, neither Rule 2005 (b) ~~nor~~ nor Rule 2007, 4(b) of IREM is ~~not~~ relevant for consideration of the relief claimed in this OA.

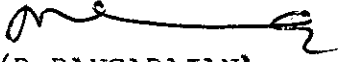
vsn

5. As it is manifest from Rule 2005(a) that the casual labour treated as temporary are entitled to the rights and the benefits admissible to temporary railway servants as laid down in Chapter XIII, and as the note under Rule 1304(b) states that every effort should be made to provide alternative employment to a temporary servant when it is a not case of medical decategorisation arising out of or in the course of the employment, it is just and proper to

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suitable to hold the post in the category 'C', his earlier service has also to be reckoned. No costs.


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 31st March, 1994.
Open court dictation.

vsn


Deputy Registrar (Judl.)

Copy to:-

1. General Manager, South Central Railway, Union of India, Secunderabad.
2. The Divisional Railway Manager (P), South Central Railway, Vijayawada.
3. The Sr. Divisional Engineer (South), South Central Railway Vijayawada.
4. The Assistant Engineer, South Central Railway, Tuni.
5. Permanent Way Inspector, South Central Railway, Tuni.
6. One copy to Sri. P. Bhaskar Mohan, advocate, 12-11-1510, Boudhnagar, Secunderabad.
7. One copy to Sri. N.R. Devaraj, SC for Rlys, CAT, Hyd.
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