

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
AT HYDERABAD

DA 926/95.

Dt. Of Order: 9-8-95.

1. S.Surya Rao
2. P.Adinarayana
3. M.Ramulu
4. G.Sitaram
5. M.Bhooleka
6. T.Rambabu

7. S.Appalanaidu
8. M.Krishna Rao
9. M.Bhaskara Rao
10. P.Krishna
11. S.Venkateswara Rao

... Applicants

Vs.

1. The P.W.Inspector, S.E.Railway, Cheepurupalli, Vizianagaram District, A.P.
2. The Divisional Personnel Officer, S.E.Railway, Visakhapatnam (Wailtair), Andhra Pradesh.
3. The Divisional Railway Manager (Engineering), S.E.Railway, Visakhapatnam (Wailtair), A.P.
4. The Union of India, rep. by the General Manager, S.E.Railway, Calcutta - 700 043.

... Respondents

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Counsel for the Applicants : Shri K.Venkateswarlu

Counsel for the Respondents : Shri N.R.Darbagh, *Sejallyn*

** ** **

CORAM:

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

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

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.... 2.

JUDGMENT

(as per Hon'ble Sri R.Rangarajan, Member(Administrative))

Heard Sri K.Venkateswarlu, learned counsel for the applicants and Sri N.R.Devaraj, learned Standing Counsel for the respondents.

2. There are 11 applicants in this O.A. It is stated for the applicants that they had worked as Casual Gangmen during the year 1971 under the control of the respondents. ^{After some break} ~~After~~ some break from 24.11.1976 to 23.12.1976 they were again appointed on 24.6.1992 to 13.9.1992. (Details ~~are~~ not furnished) It is further alleged that a seniority list of Ex-Casual Gangmen was prepared and the applicants herein were given seniority at various places between 46 and 120 in the said seniority list. It is submitted that after preparing the seniority list, on 20.7.1993 the respondents issued call letters to applicants for appearing for the medical fitness test for selection to Gangmen posts. They attended to the medical fitness test and it is stated that they were found medically fit. Their LTI was also checked and verified.

3. It is the case of the applicants that inspite of their eligibility to appoint as Gangmen, some of their juniors were appointed in preference to the applicants. They rely on the judgment of this Tribunal in OA 1138/93 dt. 15.9.1993 of this Bench for their reengagement as Casual Gangmen in preference to their juniors. It is stated for the applicants that they represented their case

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to the concerned for which no reply was given. Hence, they filed this OA for declaration that the action of the respondents in not taking them back into service while appointing their juniors is illegal, arbitrary discriminatory and violative of principles of natural justice.

4. Casual Labourers who were in service after 1981 Casual are to be taken on the Live/Register automatically by the administration. It is not known whether the names of the applicants herein are entered in the said Live Casual Register maintained by the concerned authorities. If their names are in the Live Casual Register and if their juniors are appointed whose names are entered later than the applicants in the Live Casual Register, then the applicants have a case for re-engagement as Casual Gangmen. Learned counsel for the applicants submitted that their names are in the Live Casual Register and those who were appointed in preference to the applicants as Casual Gangmen are juniors to them. However, no documentary proof has been produced to substantiate his claim.

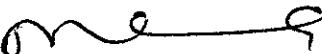
5. The learned Standing Counsel submitted that if the applicants are senior to those who are appointed as Casual Gangmen on the basis of Live Casual Register, their cases will be considered for re-engagement as Casual Gangmen. However, if those who were engaged as Casual Gangmen even if their juniors to the applicants on some other consideration, the applicants are not entitled for re-engagement as Casual Gangmen. The submission of the learned Standing counsel has to be looked into by the concerned official respondents before re-engaging the applicants if their juniors are engaged in preference to them. If their juniors are engaged for the reasons other than the seniority as

mentioned above, the claim of the applicants herein may be rejected after informing the applicants suitably with details. We feel no direction is necessary ~~in such a case, in this regard as seniority is not the criterion for appointing the juniors to the applicant.~~

6. In the above circumstances, the following direction is given:-

If the applicants' names have been entered in the Live Casual Register and if the juniors to the applicants herein whose names had been entered in the Live Casual Register later than the applicants, are engaged, the applicants also should be considered for re-engagement as Casual Gangmen in the vacancies arising in future. It is made clear that if the applicants are going to be re-engaged in pursuance of this order, none who are presently working as Casual Gangmen, will be retrenched.

7. The OA is ordered accordingly at the admission stage itself. No costs.


(R. Rangarajan)
Member (Admn.)


(V. Neeladri Rao)
Vice Chairman

Dated 9th Aug., 1995.

Grh.

Dy. Registrar (Judl.)

Copy to:-

1. The P.W. Inspector, S.E. Railway, Cheepurupalli, Vizianagaram Dist, A.P.
2. The Divisional Personnel Officer, S.E.Rly, Visakhapatnam (Waltair), A.P.
3. The Divisional Railway Manager (Engineering), S.E.Railways, Visakhapatnam (Waltair), A.P.
4. The General Manager, S.E.Railway, Union of India, Calcutta
5. One copy to Sri. K. Venkateswarlu, advocate, CAT, Hyd.
6. One copy to Sri. N.R. Devaraj, ~~Sr. Secy~~, CAT, Hyd.
7. One copy to Library, CAT, Hyd. ~~Sejmly~~
8. One spare copy.

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Encl. Jh 10/95

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD.

THE HON'BLE MR. JUSTICE V. NEEELADRI RAO
VICE CHAIRMAN

A N D

THE HON'BLE MR. R. RANGARAJAN: (M(ADMIN)

DATED 2.8.1995

ORDER/JUDGMENT:

M.A./R.A./C.A. No.

OA. No. 92645

TA. No. (W.P.)

Admitted and Interim directions
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn

Dismissed for default

Ordered/Rejected.

No order as to costs.


11/8/95


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Central Administrative Tribunal
DESPATCH

11 AUG 1995 NSW

BENCH.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

CP.78/96 in OA.926/96

dt.22-11-96

Between

1. S. Surya rao
2. P. Adinarayana
3. M. Ramulu
4. G. Sitaram
5. M. Bhooleka
6. T. Rambabu
7. S. Appalanaidu
8. M. Krishnarao
9. M. Bhaskara Rao
10. P. Krishna
11. S. Venkateswara Rao

: Applicants

and

1. Sri S. Abraham
PW Inspector, SE Rly.,
Cheepurupalli, Vizayanagaram

2. Sri V. Venkata Rao
Sr. Divnl. Pers. Officer 'S'
SE Rly, Visakhapatnam (Waltair)

3. Sri RR Bandari
Dinvl. Rly. Manager (Engg)
SE Rly., Visakhapatnam (Waltair)

4. Sri Ramjee
General Manager SE Rly,
Calcutta-43

: Respondents

Counsel for the petitioners : P. Naveen Rao
Advocate

Counsel for the respondents : N.R. Devaraj
SC for Railways

CORAM

HON. MR. JUSTICE M.G. CHAUDHARI, VICE CHAIRMAN *bill*

HON. MR. H. RAJENDRA PRASAD, MEMBER (ADMN.) *QA* *21*

CP.78/96 in OA.926/96

dt.22-11-96

Judgement

Oral order (per Hon. Mr. Justice M.G. Chaudhari, VC)

Mr. Phaniraj for Mr. P. Naveen Rao, for the petitioner

Mr. N.R. Devaraj for the respondents

Sri Devaraj

1. (Instructed by Mr. Abraham, PWI under Respondent-1) states that the applicants 6- 11 allege that the respondents have not been engaged since dated 9-8-1993 in the OA so far and therefore action in contempt is being initiated against them.

2. The aforesaid order in the OA shows that the following order was passed :

"If the applicants' names have been entered in the live Casual Register and if the juniors to the applicants herein whose names had been entered in the live Casual Register later than the period considered for re-engagement as Casual Gangman in the vacancies arising in future and if the applicants will be re-engaged in pursuance of the order, none who are presently working as Casual Gangman will be retrenched."

According to the applicants apart from the workers union making representations they also had caused legal notice to be served on the authorities of the respondents on 21-12-95 but there has been no response.

3. Mr. N.R. Devaraj, Senior Standing Counsel on instructions informs us as follows :

- i) Names of Applicants-1 and 3 do not exist on the live Register and they are therefore not covered by the order.
- ii) None of the juniors of the respondents - 6 to 11 have been engaged earlier and therefore they are not entitled to be engaged under the order as it contemplates that juniors should have been already engaged.

..2.



iii) Applicant No.2 was engaged in 1992 but has been subsequently medically decategorised and declared unfit and therefore the question of his re-engagement does not arise under the order. and

iv) Respondents 4 and 5 who not having responded to the General Notification issued in 1992, some juniors to them were engaged and therefore their names have been kept under consideration and as soon as vacancies arise they will be offered engagement in preference to any one else.

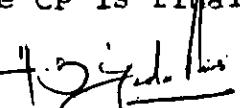
4. The explanation offered *prima-facie* is sufficient to hold that no contempt is involved. The learned counsel for the applicants, however, raises factual disputes on the aforesaid points. He also submits that although work was available and juniors have been appointed, the applicants have not been appointed. Such factual dispute ~~can~~ not lie within the ~~campus~~ of contempt application. We, therefore, make the following directions :

(a) The applicants No.4 and 5 shall be offered re-engagement as soon as the vacancies occur in compliance with the original order.

(b) The respondents shall formally inform the applicants in writing the reasons for which as stated before us the other applicants cannot be re-engaged in compliance with the original order. Such replies should be sent within a period of four weeks from today.

(c) The applicants except A-4 and 5 will be at liberty to adopt legal remedies as they may be advised on receiving the reply as aforesaid.

5. The CP is finally disposed of in terms of above order.


(H. Rajendra Prasad)
Member (Admn.)


(M.G. Chaudhari)
Vice Chairman

Dated : November 22, 96
Dictated in Open Court


A. Maheshwaran
Deputy Registrar (O.S.C.)

C.P.78/96

To

1. Sri S.Abraham, PW Inspector,
SE Rly, Cheepurupalli, Vizianagaram.
2. Sri V.Venkata Rao,
Sr.Divisional Personnel Officer 'S'
SE Rly, Visakhapatnam (Waltair).
3. Sri R.R.Bandari, Divisional Railway Manager (Engg.)
SE Rlyk Visakhapatnam (Waltair).
4. Sri Ramjee, General Manager, SE Rly,
Calcutta-43.
5. One copy to ~~Mr. P. Narayana Rao~~.
6. One copy to Mr.N.R.Devraj, SC for Rlys, CAT.Hyd.
7. One copy to Library, CAT.Hyd.
8. One spare copy.

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I COURT

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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABADTHE HON'BLE MR.JUSTICE M.G.CHAUDHARI
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD
MEMBER (ADMN)

Dated: 22-11-1996

ORDER / JUDGMENT

MIA/C.A. No. 78/96

in

O.A.No. 926/96

T.A.No. (W.P.)

Admitted and Interim Directions
issued.

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn.

Dismissed for default.

Ordered/Rejected.

No order as to costs.

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