

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A. NO: 1360 OF 1995

BETWEEN:

1. L. RAMESH, S/O T. Lingan
aged 27 years, Unemployee
NVRR, Vijayawada

2. Md. Sadik, S/O Moosa
aged 23 years,
NVRR, Vijayawada

.....APPLICANTS

AND

1. Senior Divisional Personnel Officer,
O/O DRMP, South Central Railway,
Vijayawada

2. Senior Divisional Commercial Superintendent RESPONDENTS
South Central Railway, Vijayawada
RESPONDENTS

DETAILS OF THE APPLICATION

I. PARTICULARS OF THE APPLICANTS

The particulars of the applicants are as mentioned in the above cause title.

The address for service of notices and process on the above named applicants is that of their counsel Sri A. Ramakrishna Rao Sanka, H.NO: 1-10-20, Ashok Nagar, Hyderabad.

II. PARTICULARS OF THE RESPONDENTS:

The particulars of the respondents are as mentioned in the above cause title.

III. ORDERS AGAINST WHICH THIS APPLICATION FILED:

O.A. is filed seeking extension of benefit of Judgment dated 4.11.1992 in OA No: 333 of 1992 and batch and to consider the applicants for engagement and regularisation of their services.

L. Ramesh

md. Sadik

IV. JURISDICTION OF THE TRIBUNAL

The applicants declare that the subject matter of the orders against which they want redressal is within the jurisdiction of this Hon'ble Tribunal under Rule 14(1)(C) of the Central Administrative Tribunals Act, 1985 and the applicants are employed as Cleaners in Vegetarian Refreshment Room of Vijayawada Railway Station on South Central Railways.

V. LIMITATION

The applicants declares that the O.A. is within the limitation as per Rule 21(1)(A) of CAT Act 1985. The respondents have to screen the applicants also as per the Judgment dated 4.11.1992 in OA No.333 of 1992 and batch.

VI. BRIEF FACTS OF THE CASE

a) The applicants respectfully submit that they have been engaged as Cleaners at Vegetarian Refreshment Room (NVRR), Vijayawada. The particulars of the number of days of the applicants are filed as Annexure A-^(Page - 9 & 10) 14. The wages of the applicants paid through the contractor and the same was drawn on pay bills as signed by the RM/VRR after the claim was admitted by the AAO, BZA. So the catering department was verymuch aware of the applicants engagement and the NVRR, Vijayawada. The 1st applicant passed SSLC and the 2nd applicant 9th class. Both the applicants are satisfying eligible conditions for absorption for any Group-B Post.

b) While so, the applicant's services along with others were terminated by oral orders wef 15.12.1990 without any

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md. Sadik

notice. The enquiries revealed that following the abolition of the contract labour system, the contract subsisting between the South Central Railway and the contractor was terminated wef 10.12.1990. It is which lead to abolition of the contract labour system.

The Hon'ble Supreme Court of India while adjudicating over the issue raised in WP Nos 19 and 498 of 1986 and 37 of 1987 filed by Catering Cleaners of Southern Cleaners of Southern Railways rep. by V. Chinna Thambi and another etc. and in which the Ministry of Railways, Government of India and the Railway Board was party respondents have held as follows:

" In the circumstances the appropriate order to make in the present case is to direct the Central Government to take appropriate action under S.10 of the contract labour(abolition and Regulation) Act in the matter of prohibiting the employment of contract labour in the work of cleaning catering establishments and pantry care in the Southern Railway. This must be done within six months from today. Without waiting for the decision of Southern Railway will be free, of its own motion to abolish the contract labour system and to regularise the services of those employed in the work of cleaning catering establishments and pantry cars in the Southern Railway. In any case, the administration of the southern Rm Sank Railway will refrain, until the decision of the Central Government under S.10 from employing contract labour. The work of cleaning catering Establishment and pantry cars will be done departmentally by employing those workmen who were previously employed by the contractor on the same

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wages and conditions of work as are applicable to those engaged in similar work by the Western Railway. If there is any dispute whether an individual workman was or not employed by the contractor such dispute shall be decided by the Deputy Labour Commissioner, Madras. Any further directions may be sought, if necessary, from the Madras High Court. If the Central Govt. does not finally decide the question within six months from today, the Southern Railway Administration will within three months thereafter absorb the workmen into their service and regularise their services".

A Copy of Hon'ble Supreme Court Judgment in the above petition is filed as Annexure A-Y (Page - 13)

Following the said direction, the Southern Railway ~~also~~ abolished the contract labour system under its Zone and regularised the services of all those employed in the catering establishments and pantry cars in the Southern Railway. However, in the case of South Central Railways, the decision to follow suit was delayed presumably on account of correspondence between the South Central Railway and the Railway Board on the one hand and the Govt. of India on the other. It was not until 1990, a decision was taken to be abolish contract labour system obtaining in the South Central Railways. Although, all employees who were working in the catering establishment in the zone ought to have been absorbed on a regular basis but for the reasons best known to the authorities, decided to take only those employees who were working as on 27.7.1988, when Gazette Notification was issued abolishing contract labour. Thus as a result person who were otherwise engaged till the day on which the contract labour came to a close,

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were left out from consideration for absorption. Far from following the ~~spirit~~ spirit of Judgment of Hon'ble Supreme Court in the case referred to above and absorbing all the employees working as on the date when contract terminated and irrespective of the number of days of service they had put in the authorities denied them the opportunity of absorption.

C) The applicants respectfully submit that while Gazette Notification abolishing contract labour system was issued on 27.7.1987, the authorities in the South Central Railway implemented the same only in 1990 that is after a lapse of 3 years of the Gazette Notification and for all these years the labour provided by the contractor were utilised in the catering establishments. However, when it came to the question of absorption and regularisation, they are relying on the date of gazette notification of 1987 as the criteria for absorption only to deprive the benefit to all those who have been appointed on or after 1987.

D) The applicants respectfully submits that the respondents action putting a crucial date as 27.7.1987 and accordingly their action to consider only those catering cleaners who are on the list is per se illegal and it is against the judgment of apex court as referred to above. The applicants are fully eligible for regularisation as ~~they~~ ^{they} satisfy all the conditions prescribed by the Respondents. ~~copy of norms framed by the respondents is filed as Annexure~~ The applicants ~~are~~ studied SSLC and 9th class.

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E) The applicant further respectfully submits that the Hon'ble Tribunal in a batch of case filed by similar placed persons held the action of respondents in setting a crucial date as 27.7.1987 is illegal and directed the respondents to consider the cases of all contract labour engaged after 28.7.1987 also in the same manner as others and prepare a revised list upto the date when the contract labour system was actually terminated. So the applicant was engaged after the said crucial date and the respondents have to consider the case of the applicant also. A copy of judgment dated 4.11.1992 delivered by this Hon'ble Tribunal in OA No.333 of 1992 is filed as Annexure VII (page-16). And the same judgment is pronounced in a batch of case.

F) The respondents have to screen the applicants also as per the Judgment dated 4.11.1992 in OA No.333 of 1992 and batch for engagement as Casual Labour. However the respondents didnot screening the applicants sofar while screening the other similarly situated persons who have approached the Hon'ble Tribunal. All the cleaners who worked at NVRR were taken as Casual Labour after abolition of contract labour system leaving only the applicants. The respondents are further absorbed CL cleaners of catering department in Group-D services as Bos Boys/ YPC in the scale of Rs.750-940 in BZA Division vide Memo dated 11.2.1995 (copy filed as Annexure VII page-20) In the above memo considered 31 candidates who are found suitable for absorption in Group-D service, out of which two candidates from NVRR,BZA viz

A.G. Ashokkumarialen and G Balakrishna. So there are two vacancies of Casual cleaners of catering department

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md. Sadik

of NVRR, BZA felt vacant. The applicants are to be considered in these two vacancies as Casual Labourer Cleaners.

VII. DETAILS OF THE REMEDIES EXHAUSTED

The applicants submit that they have no statutory alternative remedy provided in departmental rules. However, they made a written representation for which there is no reply.

VIII. MATTERS NOT PREVIOUSLY FILED OR PENDING WITH ANY OTHER COURT.

The applicants further declare that previously the applicants have not filed any application, writ petitions or suit before any Bench of the Tribunal or court or any other form regarding the matter in respect of which this application is made.

IX. RELIEF(S) SOUGHT.

In view of the facts mentioned above, the applicants pray that the Hon'ble Tribunal may be pleased to direct the respondents to extend the benefit of the Judgment dated 4.11.1992 in OA No.333 of 1992 and consequently direct the respondents to consider the case of the applicants for engagement as C.L. Cleaners against the two vacancies fallen vacant at NVRR, Vijayawada and pass such other order or orders which are deemed fit and just in the circumstances of the case.

X. INTERIM RELIEF IF ANY

Since the matter is covered by the Hon'ble Tribunal Judgment in OA No.333 of 1992 and batch, the Hon'ble Tribunal may be pleased to dispose of the matter at early.

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XI. PARTICULARS OF POSTAL ORDER TOWARDS APPLICATION FEE

Postal Order No :

Dated :

XII LIST OF ENCLOSURES

a) Postal Order b) Annexures as per Index
c) Vakalat

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VERIFICATION

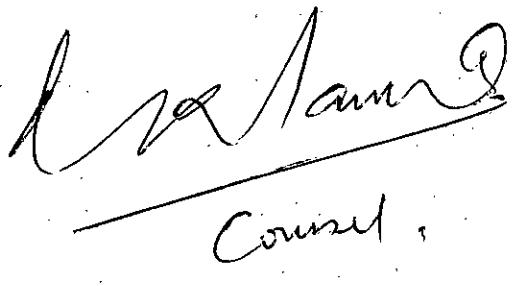
We, L. RAMESH and Md. SADIK verify that the contents in the above paras are true to the best of our knowledge and belief and we have not suppressed any material facts.

L. Ramesh

Md. Sadiq

Hyderabad.

SIGNATURE OF APPLICANTS


Md. Sadiq
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