

(38)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

OA. 401/95

Date of decision: 28-4-95

Between

- | | |
|----------------------|--------------------------|
| 1. T. Anjaiah | 36. G. Narasimha |
| 2. M. Satthaiah | 37. Pentaiah |
| 3. N. Balanarasimha | 38. Beerumallaiah |
| 4. M. Narasimha | 39. G. Anjaiah |
| 5. M. Uppalaiah | 40. Maraiiah |
| 6. E. Narasimha | 41. K. Rangaiah |
| 7. Yadaiah | 42. C. Baliah |
| 8. B. Bakkaiah | 43. Ramulu |
| 9. Somaiah | 44. D. Bikshapathi |
| 10. K. Ramaiah | 45. M. Yadagiri |
| 11. G. Rajaiah | 46. L. Gandaiah |
| 12. N. Yadaiah | 47. B. Balaiah |
| 13. Bikshapathi | 48. Allauddin |
| 14. Bikshapathi | 49. N. Narasimha |
| 15. M. Komaraiah | 50. Addrailaiah |
| 16. G. Istari | 51. Muttiah |
| 17. D. Narasimha | 52. K. Shankaraiah |
| 18. Bikshapathi | 53. Rajaiah |
| 19. Narasaiah | 54. M. Pochaiah |
| 20. E. Swamy | 55. Kistaiah |
| 21. S. Yadagiri | 56. Basavaiah. M |
| 22. Yadaiah | 57. M. Yadaiah |
| 23. Narasimha | 58. M. Sathaiah |
| 24. G. Janaiah | 59. Buchamma |
| 25. Chinna Narasaiah | 60. Kistamma |
| 26. Pandu | 61. Kistamma |
| 27. Yellareddy | 62. Jamanamma |
| 28. Satthaiah | 63. Eramma |
| 29. M. Shanker | 64. Saiamma |
| 30. Chukkaiah | 65. Mattamma |
| 31. A. Sshaiah | 66. Shankaramma |
| 32. Kumaraswamy | 67. Buchamma |
| 33. M. Jammaiah | 68. E. Venkataiah |
| 34. Balaiah | 69. T. Brahmachary |
| 35. Anjaiah | 70. Devareddy |
| | 71. Ramulu ... Applicant |

AND

1. The Union of India, Rep. by the General Manager,
South Central Railway, Rail Nilayam, Secunderabad.
2. The Deputy Chief Engineer, (Construction),
Central/Secunderabad, S.C.Rly, Vikarabad.
3. The Chief Personnel Officer, S.C.Rly, Secunderabad.
4. The Chief Administrative Officer (Construction)
South Central Railway, Secunderabad. ... Responder

Counsel for the applicants : U. Pattabhi Ramaiah, Advocate

Counsel for the respondents : J. R. Gopal Rao, SC for Rlys.

CORAM:

HON. MR. JUSTICE V. NEELADRI RAO, VICE CHAIRMAN

HON. MR. R. RANGARAJAN, MEMBER (ADMN.)

O.A.NO.401/95.

JUDGMENT

Dt:28.4.95

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

Heard Shri V.Pattabhi Ramaiah, learned counsel for the applicants and Shri J.R.Gopal Rao, learned standing counsel for the respondents.

2. All these applicants were engaged as casual labour for Engineering Construction Project in Secunderabad Division. These applicants were deployed to Hospet in Guntakal Division for working in Gauge conversion work. It is stated for the respondents that these applicants worked as casual labour in doubling project work between Tandur-Malkhaid Road section and the same was handed over to the open line in November 1994 after the work was ~~xxxx~~ over and hence they along with the others were found surplus and it had become ^{necessary} to redeploy them to other divisions.

3. The contentions for the applicants as as under:-

(i) The impugned order whereby these applicants were deployed to other divisions is illegal, for while deploying them to other divisions, their juniors are allowed to continue in SC division.

(ii) They have to be absorbed in the post to be created in view of the new asset ie., new doubling

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line between Vikarabad-Malkhaid or other new asset created in the division and hence without consideration of their case for such absorption, they cannot be deployed to ~~Hubli-Hospet~~ in Guntakal Division.

4. It is stated for the respondents that as the entire doubling project work between Tandur-Malkhaid was over, and the casual labour worked in the said unit were found surplus and hence it has become necessary to deploy all of them and hence the question of retaining any junior casual labour worked in this unit had not arisen. It is further stated for the respondents that the ~~extra~~ casual labour in the project work in the engineering side in this division will be absorbed in the new posts to be created on account of the new assets and also in 1/3rd of the vacancies in the Open Line.

5. It is not in controversy that the seniority unit for casual labour engaged in the projects engineering side is the division and not ~~the~~ the unit in the division. In para-3 of the ~~Memo~~ Circular No.P(E)407/Project/CL, dated 23.4.1987 it is stated that, "It has become mandatory to adopt Divisional seniority for "project Casual Labour" for purposes of engagement and ~~retrenchment~~ and to give up the existing practice of Divisional Engineer/Construction seniority unit".

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In fact, it is ^{even} stated for the respondents that the divisional seniority is being prepared for the casual labour working in the project on the engineering side.

6. In such ^{or} case, the principle of 'last ^{to} come, first ^{to} go' has to be followed ^{for purpose} ~~in case~~ of retrenchment and hence unless the junior in the seniority unit is retrenched, senior in the seniority unit cannot be retrenched on the ground of x surplus. We feel that the same principle has to be followed ^{even} in the case of deployment from one division to another when that deployment is necessary on the ground of surplus in the division. ^{for} The deployment, in case of surplus, is being resorted to instead of retrenchment on compassionate grounds and also for utilising the services of the experienced employees. So, we do not find any reason as to why the rule ~~is~~ different from the rule adopted in case of retrenchment has to be followed in case of deployment, when such redeployment is found necessary on the ground of surplus in one division.

7. So, this OA is disposed of as under:-

It is open to the respondents to address the casual labour in this seniority unit as to whether any of them is interested in going to Hospet/Hubli. If such of those who are interested in going to Hospet/Hubli by keeping lien in this Secunderabad


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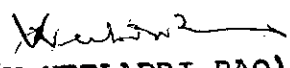
.. 5 ..

Division

~~THEY CAN BE SENT~~ ^{Division} ~~UNIT~~, they can be sent to the respective ~~units~~ ^{Division} to the extent ~~RE~~ their deployment is necessary. If there are no volunteers or if such volunteers are less than the numbers to be deployed from SC ^{Division} unit, the deployment has to be made from junior most in the seniority unit to the extent ~~RE~~ ^{it} deployment is necessary. If on that basis, all these or some of these applicants need not be deployed from SC division, they can be posted in place of those casual labour who have to be deployed from the seniority unit by following the principle referred to herein, or it is open to the concerned authority to post these applicants or such of the applicants who need not be deployed, in any unit in SC division. There need not be any direction in regard to the absorption to the post to be created on the basis of the new assets or ⁱⁿ any 1/3rd vacancies on Open Line as the concerned authority stated that the extant rules will be followed in regard to the same.


8. The CA is ordered as referred to in para-7 above. No costs./


(R. RANGARAJAN)
MEMBER (ADMN.)


(V. NEELADRI RAO)
VICE CHAIRMAN

DATED: 28th April, 1995.
Open court dictation.

vsn


Deputy Registrar (SD)

TYPED BY
COMPILED BY

IN THE CENTRAL ADMINIS
HYDERABAD BENCH AT H

THE HON'BLE MR. JUSTICE V. NEELADRI
VICE- CHAIRMAN

AND

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

DATED - 28-6-1995.

ORDER/JUDGMENT:

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

O.A.No.

in

401/95

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.

