

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH:
AT HYDERABAD

O.A. No.539 OF 1999.

DATE OF ORDER:18-6-1999.

BETWEEN:

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|-------------------|----------------------|
| 1. K.Surayya. | 11. B.Paidi Raju. |
| 2. S.Polaiah. | 12. P.Simhadri. |
| 3. N.Banga Reddy. | 13. Ch.Rambabu. |
| 4. S.Adinarayana. | 14. P.Ramu. |
| 5. K.Bullalah. | 15. J.V.Ramana. |
| 6. S.Appa Rao. | 16. J.Appalanaidu. |
| 7. N.Mahalaxmi. | 17. Juvvalu. |
| 8. K.Tata Rao. | 18. D.V.R.Murthy. |
| 9. M.Sanyasi. | 19. S.Suryanarayana. |
| 10. P.Satyam. | 20. S.Appa Rao. |

....Applicants

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1. Union of India, rep. by General Manager, S.E.Railway, Calcutta-43.
2. Divisional Railway Manager, S.E.Railway, Waltair, Visakhapatnam-530 004.
3. Chief Administrative Officer(C), S.E.Railway, Chandrasekharapur, Bhubaneswar, Orissa.
4. Chief Personnel Officer, S.E.Railway, Calcutta-43.
5. Chief Engineer(Con)/S.E.Railway, Visakhapatnam-530 004.

.....Respondents

COUNSEL FOR THE APPLICANTS :: Mr.B.S.H.Rao

COUNSEL FOR THE RESPONDENTS :: Mr.C.V.Malla Reddy

CORAM:

THE HON'BLE SRI R.RANGARAJAN, MEMBER (ADMN)

THE HON'BLE SRI B.S.JAI PARAMESHWAR, MEMBER (JUDL)

: O R D E R :

ORAL ORDER (PER HON'BLE SRI R.RANGARAJAN, MEMBER (A))

Heard Mr.B.S.H.Rao, learned Counsel for the Applicant and Mr.C.V.Malla Reddy, learned Standing Counsel for the Respondents.

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2. There are 20 applicants in this OA. They submit they are post-81 casual labourers engaged in the Construction Organisation. In view of the Apex Court Judgment in INDRAPAL YADAV's case reported in AIR 1987 SC 1153, they should be kept in the Live Register and their services regularised as and when vacancy arise on the basis of the inclusion of their names in the Live Register. They further submit that inspite of the Construction Organisation having sent their names for inclusion in the Live Register, vide letter bearing No.CAO(C)/E/55/Pt.III/2217, dated:3-1-1991 of the Chief Administrative Officer of the Construction Organisation, the Division has not prepared the Live Register including the names^{of} the applicants herein who were engaged post-81 casual labourers. As the Unions have started pressing the Construction Organisation for not including the names in the Live Register, they approached the Divisional Railway Manager, South Eastern Railway, Waltair i.e., Respondent No.2 herein for issuing list of the casual labourers of the Construction who are to be kept in the Live Register, vide letter No.D.O.No.CAO/C/VSKP/E/55/Pt.III/,dated: 23-3-1992, (Annexure.A-7, page.32 to the OA). Inspite of which it is ^{stated} ~~specified~~ that the respondents especially Respondent No.2 had taken no action.

3. In the meantime, a notification was issued calling for applications for regular appointment ~~of~~ ^{of} ~~General Managers and other~~ Group-'D' Staff in the ~~work~~-line Organisation. The applicants also

submitted to that notification as they were out of job for a long time and also the Live Register was not issued as desired by the Construction Organisation way back in the year 1991. It is further stated that the respondents started screening all including the applicants whose names should have been put in the Live Register in view of their services in the Construction Organisation after 1981. They protested against the same and requested the administration to avoid screening the applicants herein but appoint them after medically examining them as they are out of service over five years and also ensuring that the qualification they possessed are equivalent to the qualification possessed by those who are enlisted in the Live Register for appointment against the vacancies of Group-'D' as mentioned above. But it is stated that their request was turned down.

4. This OA is filed to set aside the panel/selection proceedings drawn up on the basis of interview conducted on 28/29-10-1997 to post-81 Ex.casual labourers based on the notification dated:19-8-1997, as the same is not in conformity with the extant rules and instructions contained in Establishment Serial No.187/86. It is also prayed to set aside Para.2 of DRM(P)/WAT's letter dated:16-6-1995 bearing No.WPV/942/Policy/CL, Annexure.(A-10), whereby certain instructions were issued for re-engagement of casual labourers and

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absorption against the vacancies in the Engineering Department by holding the same is in violation of Railway Board's instructions issued in Establishment Serial No.187/86, (Annexure.A-2), and 308/87, (Annexure.A-4), and for a consequential direction to the respondents to re-engage the applicants in Civil Engineering Department of Waltair Division based on the Post-81 Live Casual Register of Construction Organisation submitted by CAO(C)/VSKP as per Railway Board's letter dated:11-9-1996, circulated by S.E. Railway's Establishment Serial No.187/86 instead of recruitment of fresh faces from the open market on the basis of the selection held from 24-2-1999 based on the notification dated:9-5-1998.

5. An Interim Order was passed in this OA on 8-4-1999, whereby 20 posts of casual labour sanctioned under the ELR requisition should be kept vacant until further orders.

6. This OA came up for admission hearing on 7-4-1999. However, it was adjourned to 8-4-1999 at the request ^{of} ~~for~~ both sides and the Interim Order as above was passed on 8-4-1999. On 1-6-1999, it came up and it was adjourned and once again it came up for consideration on 14-6-1999. Then also it was adjourned. On all those dates, the learned Counsel for the Respondents submitted that he ^{would} ~~will~~ get the materials from the respondents and file reply. But even today the reply is not filed. The learned Counsel Mr.C.V. Malla Reddy for the Respondents requested for

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adjournment for filing the reply. As sufficient time had been given to him and this case being a simple case which was already decided by the Supreme Court in the above referred cited citation, we felt it is not necessary to give any adjournment and the OA can be disposed of on the basis of the material available on record. Hence, the OA is disposed of as under:-

7. The applicants had submitted that they were post-81 casual labourers engaged in Construction Organisation. As per INDRAPAL YADAV's case post-81 casual labourers without asking a representation from them should be kept on the Live Register and those casual labourers engaged earlier to 1981 should submit a representation for keeping them in the Live Register and that the Railway had to issue Circular fixing a date for submission of such representation. If the representations are not received within the stipulated period then those ~~pre~~ ^{pre} post-81 casual labourers will not be considered for placing them in the Live Register.

8. But in the present case as it is stated that all the applicants are post-81 casual labourers and their names have been sent by the Construction Organisation way back in the year 1991 itself for keeping them in the Live Register, the question of not considering their cases, if the above submission is correct, for re-engagement as casual labours does not arise.



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9. The applicants submit that the policy letter dated:16-6-1995, should be set aside. This letter was issued way back in June,1995. If the applicants are aggrieved by the contents of the letter, it is not known why they have not approached any Judicial Forum to set aside that Order. Merely saying that they approached the recognised Union is no reason to consider their cases to set aside that Order of 16-6-1995. Hence, the prayer for setting aside the policy direction contained in the letter dated: 16-6-1995 is not correct. However, their cases should be considered in accordance with the policy decision for re-engaging them if their names had already been sent by the Construction Organisation as post-81 engaged casual labourers for consideration for re-engaging them in preference to freshers from the open market on the basis of the applications received as per the notification dated:9-5-1998 .

10. As 20 posts are kept vacant in view of the Interim Direction dated:8-4-1999, there may not be any difficulty for the administration to consider the applicants herein for re-engagement even if some freshers have been already appointed. The applicants should not be screened by asking them to carry out certain tests as they are post-81 engaged casual labourers and their names have been recommended for keeping in the Live Register by

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the Construction Organisation way back in the year 1991 itself. But as they are out of service for five years, they should be medically examined and their identity should be checked for ensuring that no bogus candidate has been engaged by the open line Organisation. The applicants should possess the qualification as laid down for a Live Register Casual Labour for re-engagement as post-81 casual labourers.

11. The learned Counsel for the Respondents submits that there may be some seniors belonging to similar nature. Hence, he requested for certain directions in their cases also.

12. The Tribunal cannot make a roaming enquiry and find out such cases and give orders. Hence, we restrain ourselves to give any orders in that connection. We are giving orders only in respect of the applicants present before us. Other cases will be decided as per law by the respondent-Organisation.

13. In view of the above, the following directions are given:-

- i) If the Construction Organisation had recommended their names in the 1991 list for keeping them in Live Register as a post-81 engaged casual labourers, *and they are eligible for registration* then the applicants are to be considered for

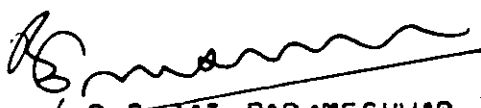



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re-engagement as casual labourers against
the 20 vacancies which were ^{Ordered -} to be kept
vacant as per the Interim Order dated:
8-4-1999;

- ii) The policy decision for re-engagement of casual labour as stipulated in the letter dated:16-6-1995, and also the Establishment Circular of Serial No.187/86 will hold good;
- iii) The applicants should be examined for their ^{be properly checked -} medically fitness and for their identity;
- iv) As regards their educational qualification, they should be re-engaged if they possess the educational qualification required for a post-81 engaged casual labourer to be kept on Live Register.

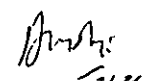
14. With the above directions, the OA is disposed of at the admission stage itself. No costs.


(B.S. JAI PARAMESHWAR)
MEMBER (JUDL)
18/6/99


(R. RANGARAJAN)
MEMBER (ADMN)

DATED: this the 18th day of June, 1999

Dictated to stand in the Open Court


23/6/99

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