

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH
AT HYDERABAD

O.A.No.909 of 1999

DATE OF DECISION: 2/ -1-2000

B.RAVI RAJA KUMAR
son of B.Raja Ratnam
Railway Quarters No.288/D/RJY
Rajahmundry, E.G.District

.. Applicant

Vs.

1.Union of India rep. by
the General Manager
South Central Railway
Secunderabad

2.The Divisional Railway Manager
South Central Railway
Vijayawada

.. Respondents

Mr.G.S.Rao .. Advocate for the applicant

Mr.J.R.Gopala Rao .. Advocate for the respondents

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HON'BLE SHRI JUSTICE D.H.NASIR, VICE CHAIRMAN

HON'BLE SHRI S.MANICKAVASAGAM, ADMINISTRATIVE MEMBER

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1.Whether reporters of local papers
May be allowed to see the judgment?

2.To be referred to the reporter or not?

3.Whether Their Lordship wish to see
the fair copy of the judgment?

4.Whether the Judgment is to be
Circulated to the other Benches?

Judgment delivered by Hon'ble Shri S.MANICKAVASAGAM, MEMBER (A)

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Order : Pronounced by the Hon'ble Shri S. MANICKAVASAGAM
ADMINISTRATIVE MEMBER

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The applicant claims that he worked as a Typist in the Office of the Chief Reservation Supervisor, Rajamundry, from 1.12.1992 to 15.3.1997 and 1.7.1997 to 26.3.1998. It is stated in the application that the applicant's service was abruptly stopped with effect from 26.3.1998. Aggrieved by such action of the respondents, the applicant moved this Tribunal in O.A.No.1404 of 1998. The said O.A. was disposed of by this Tribunal on 28.10.1998 with a direction to the respondents therein to consider the applicant's case sympathetically.

2. Pursuant to the directions of this Tribunal in its order dated 28.10.1998 in O.A.No.1404 of 1998, the applicant made a representation on 20.11.1998. The applicant's representation was considered by the respondents and by the order of the respondents dated 7.6.1999, the applicant's request was rejected. It is against this order of the respondents, the applicant is before us seeking the following reliefs:-

" To set aside the orders of the R-2 letter No.B/C 19/Reservation/Hindi/07-6-99 and direct the respondents to re-engage the applicant as Typist or to absorb as Substitute in Group-D service and pass such order/orders as this Hon'ble Tribunal may deem fit and proper in the interest of justice".

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3. The respondents have filed a detailed reply. It is averred in the reply that the statements made by the applicant that he had worked as a Typist in the office of the Chief Reservation Supervisor is not correct. On the contrary the applicant was engaged on ^a contract basis for typing/writing the reservation charts on payment of fixed wages. This was done after calling for applications by way of advertisement through Newspapers. It is the contention of the respondents that the applicant was not employed/appointed in the Railways in the normal sense of the term as it is understood. Therefore, when the services of the applicant were no longer required his services were dispensed with. The reply further proceeds to state that in pursuance of the directions of the Tribunal in O.A.No.1404 of 1998, the case of the applicant was considered in detail and a suitable reply was given to the applicant.

4. With regard to the case of a candidate referred to and relied on by the applicant as a precedent in the Secunderabad division in support of his case, the respondents have stated that the case of the candidate in the Secunderabad division is entirely different on facts and cannot be compared and that the above fact was also mentioned in the reply given to the applicant.

5. We have heard the learned counsel for both sides and perused the records.

6. At the time of arguments, the learned counsel appearing for the applicant had emphasised

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the point that the respondents had issued even certificates bearing testimony to the fact that the applicant had worked as a Hindi manuscript writer in the Reservation Office and had worked as a Typist on contract basis. In this behalf the learned counsel drew our attention to the judgment of the Hon'ble Supreme Court rendered in the case of National Federation of Railway Porters, Vendors and Bearers - Vs. - Union of India and others, reported in 1995 (2) SIR 709, in support of his contention.

7. The learned counsel appearing for the respondents strenuously argued that the case of Substitutes in Secunderabad division is different from that of the applicant. The candidates in the Secunderabad division were appointed as Substitutes which is the normal practice in the Railways. Per contra, the applicant in the instant case was engaged on a contract basis for a specific purpose for a specified period and the learned counsel would say that the applicant's case cannot be compared with that of the Substitutes.

8. We have examined the rival claims advanced by the parties. It is seen that the applicant was engaged on a contract basis after inviting applications through an advertisement made in the Newspapers, specifically indicating the nature of job. Therein, it was further indicated that the initial contract was for a period of two years as per the work load prevailing then. Thus, it is very clear that the applicant's services were engaged purely on a contractual basis. It is nowhere stated at the time of engaging the applicant on contract basis that the applicant would be entitled

to any regular appointment. Rightly after the need for work was over the respondents had discontinued ~~use~~ the services of the applicant. We do not find any thing arbitrary in the action of the respondents and the action of the respondents cannot be faulted. Further, in pursuance of the directions of this Tribunal in O.A.No.1404 of 1998, decided on 28.10.1998, the respondents had considered the case of the applicant and had issued a detailed order stating as to why the applicant could not be absorbed in the Railways on a regular basis.

9. We have perused the decision referred to and relied on by the learned counsel for the applicant rendered in the case of National Federation of Railway Porters, Vendors and Bearers - vs. - UOI and others, reported in 1995 (2) SIR 709, in support of his case. The directions of the Hon'ble Supreme Court given in the said case cannot be made applicable to the applicant because work is not available on a pernnial basis and further the applicant was engaged on a contract basis for a specific purpose depending upon the needs of the Railway Administration, for a specific duration. We therefore hold that the above said decision is distinguishable and the ratio of the said decision cannot be made applicable to the applicant.

10. With regard to the candidates absorbed by the respondent department in the Secunderabad division of the Railways, we find that they were initially engaged as Substitutes and whereas the applicant was engaged only on a contract basis. We therefore hold

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that the applicant is not entitled to the same treatment as has been extended to the Substitutes. Further, the respondents have not held out a promise of regular absorption of the applicant while engaging him on contract basis.

11. In the light of the discussion above we hold that the OA is devoid of merit and is dismissed with no order as to costs.

S. Manickavasagam

(S. MANICKAVASAGAM)
ADMINISTRATIVE MEMBER

D. H. NAZIR

(D. H. NAZIR)
VICE CHAIRMAN

21-1-2000

nks:

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH : HYDERABAD.

1ST AND 2ND COURT

COPY TO:

1. HON. J.
2. HON. M. (ADMN.)
3. HON. M. (JUDL.)
4. D.R. A (DMN.)
5. SPARE
6. ADVOCATE
7. STANDING COUNSEL

TYPED BY
COMPARED BY

CHECKED BY
APPROVED BY *12/12/2000*

THE HON'BLE MR. JUSTICE D.H.NASIR
VICE CHAIRMAN

THE HON'BLE MR.R.RANGARAJAN
MEMBER (ADMN.)

THE HON'BLE MR.B.S.JAI PARAMESWAR
MEMBER (JUDL.)

* * *

DATE OF ORDER: 21/12/2000

MA/R.A/CP: NO.

IN
DA. NO. 909/99

ADMITTED AND INTERIM DIRECTIONS
ISSUED

ALLOWED

CP CLOSED

RA. CLOSED

DISPOSED OF WITH DIRECTIONS

DISMISSED

DISMISSED AS WITHDRAWN

ORDER/REJECTED

NO ORDER AS TO COSTS

6 copies

