

61
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH

AT HYDERABAD

ORIGINAL APPLICATION NO.312/1999

DATE OF ORDER : 22.2.2000

Between:-

1. K.Sudharsan
2. P.Sathyanarayana Niranjan
3. B.Sarangapani
4. G.s.Mohan Kumar

...Applicants

And

1. Union of India, rep. by The General Manager, SC Railway, Rail Nilayam, Sec'bad.
2. Financial Advisor & Chief Accounts Officer, SC Railway, Sec'bad.
3. S.Bikshapathi, Box-boy, Station Supdt., Office, Sec'bad Railway Station, Sec'bad.
4. B.Vishnu, Hamal/Peon, O/o Division (Pay)(BG),SC Railway, Sec'bad.

...Respondents

-- -- --

COUNSEL FOR THE APPLICANTS : Shri G.S.Rao

COUNSEL FOR THE RESPONDENTS:Shri K.Shiva Reddy for RR 1 and 2

Shir P.Krishna Reddy for RR 3 & 4

-- -- -

CORAM:

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

THE HON'BLE SHRI B.S.JAI PARAMESHWAR : MEMBER (J)

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

R

-- -- --

...2.

(Order per Hon'ble Shri B.S.Jai Parameshwar, Member (J)).

- - -

Heard Sri G.S.Rao, learned counsel for the applicant, Sri K.Siva Reddy, learned Standing Counsel for the official Respondents 1 and 2 and Sri Bhim Singh for Sri P.Krishna Reddy, learned counsel for Respondent No.4. Notice to Respondent No.3 not returned. However as Respondent No.4 ^{is} being heard, it is not necessary to adjourn the matter

2. There are 4 applicants in this OA. They submit that they were engaged as Hamali/Peon in the Office of DPM/O/SC during the year 1979 on daily wages. They have narrated their nature of duties they have been performing under the Respondents in the OA. The applicants 2 and 3 also attending to the same duties. The applicant No.4 ^{is} also performing the same duties from subsequent years.

3. Earlier they had approached this Tribunal in OA Nos.1494/95, 187/95, 1493/95 and 60/95. In those OAs they have cited ^{instances} incidents of the services of Respondent No.4. Respondent No.4 filed OA No.226/91 which was decided on 29.9.1992. While considering those four OAs filed by the applicants, this Tribunal stated that the decision in OA 226/91 holds good in those OAs also and directed the applicants to submit a representation to the General Manager, SC Railway for considering their cases on merits under his discretionary powers. Accordingly, the applicants submitted their representations dated 20-5-1996. The applicants submit that their representations have not been disposed of by the General Manager.

4. Now they have filed this OA to direct the Respondents 1 and 2 to give temporary status and scale of pay from the date Respondent No.4 got all the benefits and consequential benefits to the applicants for regularizing their services from the date Respondent NO.4 is regularized.

5. Respondents 1 and 2 have filed a reply. They denied that the applicants were engaged on Casual Services. They submit that the Divisional Cashier utilizes the applicants' services and that they were paid Hamali charges for the

piece work rendered by them. They submit that the Divisional Cashiers used the applicants' services and they were paid Hamali charges for the piece work rendered by them. They submit that applicants' were not performing duties 8 hours per day and they were not paid wages. They submit that they were engaged by the Divisional Cashier whenever there was need for carrying the cash and voucher boxes and they were paid and recouped under the D.C (Pay) imprest account. They deny that the applicants' were working right from 1979.

6. They submit that as per the directions given in OA 60/95 and Batch, the General Manager considered the representations and in his discretion he decided that the representation had no merits. When the matter came up before PNM meeting but as by then the General Manager had already taken a decision, the matter was not discussed at the PNM meeting. Further, the respondents submit that the Group 'C' category are controlled by the Division Level and all the posts are filled up. They deny the version that the respondents are extracting the work even though the Group D posts are available. Further they state that the order in OA 226/91 cannot be taken as a precedent to grant the relief to the applicant. Hence they pray for dismissal of the OA.

7. The respondents dispute the engagement of casual services of the applicants by the Railway Administration. They submit that the services of the applicants were utilized by the Divisional Cashier whenever they required to carry the cash and voucher boxes. Even from the material papers produced by the applicants', such nature of works was performed by the applicants right from 1983, 1989 etc.,. When the respondent authorities extracted the work from the applicants' from 1989 and even earlier, *and they paid* ~~we feel that atleast paying them from the revenue account probably debited to miscellaneous heads. It is not paid by the Cashier from his money. Hence it cannot be stated that the applicants' were not working for the Railways. However, it is not necessary at this juncture to reopen the old issue from 1989 onwards.~~

67

8. If the services of the applicants' are utilized either as part time or full time *in future*
from *of Railways*
and paid by the Revenue Account or Project Account from any heads, then they
should be treated as a part time or a full time casual laborers as per the work load
for which they were engaged. That service as above starting from the issue of
this service
this order shall be counted for regularizing as regular servants in due course after
they fulfill the conditions required for regularization.

9. With the above direction, the OA is disposed of. No order as to costs.

B.S.Jai Parameshwar
(B.S.JAI PARAMESHWAR)

22.2.
MEMBER (J)

R.Rangarajan
(R.RANGARAJAN)

MEMBER (A)

Dated: 22nd February, 2000.

Dictated in Open Court.

Avl