IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH
HYDERABAD BENCH

OA.NO.1056/99

Date of Order: 26-11-1999

Between:

K.Sridhar

..Applicant

And

1. General Manager, South Central Railway,
   Rail Nilayam,Secunderabad-500071.

2. Chief Personnel Officer, S.C.Railway,
   Railnilayam, Secunderabad

3. Chief Administrative Officer (Construction),
   S.C.Railway, Secunderabad.

4. Dy.Chief Engineer (Construction),
   Gauge Conversion,S.C.Railway,
   Guntakal.

...Respondents

Counsel for the Applicant : Mr.S.Ramakrishna Rao, Advocate

Counsel for the Respondents : Mr.D.Francis Paul,SC for Railways

CORAM:

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

...

ORDER

Heard Sri S.Ramakrishna Rao, learned counsel for the applicant and Sri D.F.Paul, learned Standing Counsel for the Respondents.

2. During August, 1995 the applicant was unemployed. The applicant then approached the Respondent No.1 for appointment in any of the Group-D post in any of the office of the Railway Administration. The respondent no.1 took pity on the applicant and issued orders to the Dy.Chief Engineer,Construction (Gauge conversion),Guntakal to engage the applicant as casual labour (fresh face). The letter dt.16.8.95 addressed to the Dy.Chief Engineer is at Annexure 11, page-18 to the OA

3. On the basis of the said letter dt.16.8.95 the Dy.Chief Engineer by his letter

dt.5.10.95 directed the applicant to approach him with all necessary testimonials and certificates within 21 days from the date of receipt of the said letter.

4. However the applicant failed to appear before the Dy.Chief Engineer as per the letter dt.5.10.95.

5. On 22.7.97 the HQ office works (Construction Branch) Secunderabad in continuation to letter dt.16.8.95 furnished the particulars like identification and address of the applicant. The copy of the letter dt.22.7.97 is at annexure-9,page-16 to the OA. On the basis of the letter dt.22.7.97 the Dy.Chief Engineer by his letter dt.8.9.97 requested the Chief Medical Superintendent, Railway Hospital, Guntakal to examine the applicant and to issue medical fitness certificate. The copy of the letter is at annexure- ,page-14 to the OA.

6. On the basis of the letter dt.8.9.97 the Chief Medical Superintendent, Guntakal,examined the applicant and found him fit for the job in B-1 Category. A copy of the medical certificate dt.24.9.97 is at annexure-5,page-12 to the OA.

7. Thereafter the applicant did not hear anything from the respondents.

8. He submitted a representation dt.15.3.99/7.4.99. The said representation was not replied.

9. Hence the applicant has filed this application to direct the respondents to engage the applicant as casual labour (fresh face) as was contemplated by the Respondent-1 and further medical examination which found the applicant fit in any of the casual labour vacancies declaring the in action of the respondents as arbitrary,illegal,unwarranted and in violation of Art.14 & 16 of the Constitution of India.

10. The respondents have filed the reply. Their main contention is that the applicant failed to appear before the Dy. Chief Engineer, Construction (Gauge conversion),Guntakal within 21 days from the letter dt.5.10.95 and that in the meanwhile work in the said construction branch (the casual work) was completed and that thereafter the Railway Recruitment Board issued a letter dt.3.9.96 imposing ban on engagement of casual labourers and also by a letter dt.21.4.99 the Railway Recruitment Board who is the competent authority to make any appointment to Group-D posts. Thus they submit that the Respondent-1 has no power or authority to make appointment to any Group-D posts or to

engage any person on casual basis. They submit that the negligence or inadvertent attitude on the part of the applicant made him to suffer. In view of the subsequent instructions of the Railway Board the Tribunal cannot issue the direction as prayed for in the OA. Thus they pray for dismissal of the OA.

11. During the course of the hearing the learned counsel for the applicant mainly relied on letter dt.22.7.97 & 28.7.97 (Annexure-9&8 page-15&16 to the OA) . It is submitted that if there was a ban for engagement of casual labour(fresh face) then the HQrs office,works,Construction branch,Secunderabad could not have issued these letters and when once the applicant was subjected to medical examination, the respondents are under an obligation to engage the applicant as casual labour(fresh face).

12. On the other hand the learned counsel for respondents relied upon the subsequent instructions of Railway Board and submitted that the Respondent-1 has no competency either to make recommendations for engagement of casual labour or to make appointment to Group-D posts. The respondents disputed letters dt.22.7.97 and 8.9.97, according to them the HQ office could not have issued such letters when the Railway Recruitment Board had imposed a ban on engagement of casual labours in 1996 itself.

13. No doubt in the year 1995 the respondent no.1 had directed the Dy.Chief Engineer,Construction (Gauge conversion) Guntakal to engage the applicant as casual labour (fresh face). In fact the Dy.Chief Engineer, had taken action in that regard. The applicant failed to appear before him within reasonable time after the receipt of the letter dt.5.10.95.

14. Now it is stated that there is no work in the Guage conversion section of Guntakal and the Dy.Chief Engineer could not engage any casual laborers(fresh face)

15. When the Railway Board has given specific instructions in its letter dt.3.9.96 and dt.21.4.99 the HQrs office, Works. Construction Branch could not have issued those letters. Those letters are signed by Sri M.Raghunath on behalf of the Chief Administrative Officer. I feel that the C.A.O. should have been more careful in writing the letters in the year 1997when the Railway Board has already imposed ban on engagement on casual labours(fresh face). The Dy.Chief Engineer having failed to engage the applicant

as casual labour (fresh face) on the basis of letter dt.16.8.95 in 1997 sought clarification from the Chief Engineer whether the applicant could be engaged when he approached him after a lapse of nearly 2 years. Then he was informed in the negative.

16. The learned counsel for the applicant contended that Respondent no.1 had earlier directed in the year 1995, it is therefore the Railway Board letter dt.3.9.96 could not be made applicable to him. The respondents submit that there is no work to engage as Casual Labour (fresh face) in the gauge conversion division at Guntakal. When that is so the applicant cannot compel the respondent authorities to engage him on casual basis. In fact when the Dy.Chief Engineer sought clarification. then the General Manager did not approve. ~~When that is so~~ therefore the applicant cannot claim for engagement on casual basis (fresh face).

17. I feel that the negligence on the part of the applicant made him to suffer.

18. In view of the subsequent change in the policy by the Railway Board no direction as prayed for in the OA can be given to the respondents.

19. Hence this OA is dismissed. No costs.

प्रमाणित प्रति
CERTIFIED TRUE COPY
क्रम संख्या
CASE NUMBER OA.1056/99
निर्णय का तारीख
DATE OF JUDGEMENT 26.11.99
प्रति तय्यार किया गया दिन
COPY MADE READY ON 3.12.99

अनुभाग अधिकारी/न्यायालय अधिकारी
Section Officer/Court Officer
केन्द्रीय प्रशासनिक अधिकरण
Central Administrative Tribunal
हैदराबाद न्यायपीठ
HYDERABAD BENCH