

(6)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JAIPUR BENCH, JAIPUR.

* * *

Date of Decision: 10.08.2020

1. OA 411/99

Dal Singh s/o Sh. Ram Singh, R/o House No. 147/TA, Railway Station Colony, Bayana (Raj.)

2. OA 415/99

Dhiri Singh s/o Sh. Kishan Singh r/o Village Sohanawali, Post Dhormi, District Bharatpur (Raj.)

3. OA 416/99

Dayal Singh s/o Sh. Mangal Singh r/o Village Kila, Post Baswa, Distt. Aligarh (UP)

4. OA 417/99

Onkar Singh s/o Pushkar Singh r/o Village and Post Adalpur, District Hathras (UP)

... Applicants

Versus

1. Union of India through General Manager, W/Rly, Churchgate, Mumbai.

2. Dvl.Rly.Manager, W/Rly, Kota Dn., Kota.

3. Sr.Dvl.Commercial Manager, W/Rly, Kota Dn., Kota.

... Respondents

CORAM:

HON'BLE MR.S.K.AGARWAL, JUDICIAL MEMBER

HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER

For the Applicants

... Mr.P.V.Calla

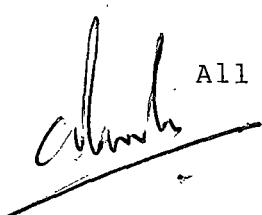
For the Respondents

... Mr.Hemant Gupta, proxy

counsel for Mr.M.Rafiq

O R D E R

PER HON'BLE MR.N.P.NAWANI, ADMINISTRATIVE MEMBER


All the above mentioned OAs are being disposed of by

this common order as the background and substantive reliefs sought in all these OAs are practically the same.

2. The applicants in these OAs had earlier approached the Central Industrial Tribunal, Jaipur but it appears from the reply/additional affidavit filed by the respondents that the said Tribunal had observed on 22.10.1999 that it could be presumed that the Workmen were not interested in prosecuting the claim (in the Industrial Tribunal) and, therefore, there was no dispute between the parties. In view of such an observation, we do not feel that the applicant had actually availed of an alternative remedy and therefore, we do not agree with the contention of the respondents that these OAs deserve to be dismissed on this count alone. We, are accordingly proceeding to consider these OAs alongwith other OAs filed by similarly situated applicants.

3. The respondents have opposed the OAs by filing reply in which it is contended that the applicants were engaged during summer season for specific periods and once the need for work was over, not only the applicants but all such casual labourers were put off from the job. It has also been mentioned that two lists of seniority are maintained of such workers, one based on the first date of engagement viz. "old faces" for the purpose of their re-engagement in any subsequent summer season and the other list is prepared on the basis of "longer number of working days" which forms the basis of their eventual regularisation. It has also been stated that by virtue of Head Office circular dated 19.3.93, no new casual labour can be engaged in the Railways after 14.7.81 and if such casual laboureres are required to be engaged, it has to have prior sanction of the General Manager

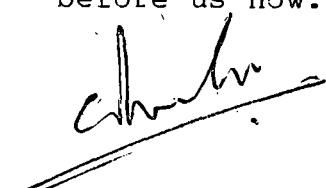
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of the Western Railway. The persons alleged to have been engaged after the services of the applicants were dispensed with, have been so engaged/appointed either with the approval of the General Manager or specific directions of the Railway Board.

4. We have heard the learned counsel for the parties and have carefully gone through the pleadings and the documents.

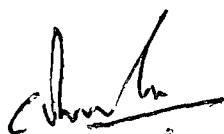
5. On going through the pleadings and the arguments advanced by the learned counsel for rival parties, we find that the controversy raised in these OAs has been examined in detail by this Bench of the Tribunal in OA 77/95. However, the claim of the applicants that some of their juniors have been re-engaged and some others have been freshly engaged after obtaining the approval of the General Manager does deserve our consideration. As regards the allegation put forward by the applicants that some persons have been directly appointed on the desire of the Minister of Railways, it is based on a cutting from the newspaper and we cannot take cognisance of such news item. Even otherwise simply because some persons have been regularly appointed in Group-D post cannot by itself give a right to the applicants for similar appointment.

6. In view of the fact that these cases are squarely covered by the decision rendered in OA 77/95, Nanak Singh v. Union of India and ors. decided on 12.3.98, we do not feel it necessary to go over the pleadings and arguments again and it will serve the cause of justice if the relief given through the order dated 12.3.98 in OA 77/95 is also given in the OAs before us now. In view of this we direct as under :-



The OAs are allowed and the respondents are directed to seek specific sanction of the General Manager, Western Railway, and if need be of the Railway Board, to re-engage the applicants as casual labourer under the respondent railways in the same manner as was done in the case of Nanak Singh, the applicant in OA No.77/95 decided by this Bench of the Tribunal on 12.3.1998

In the circumstances, there will be no order as to costs.



(N.P. NAWANI)

MEMBER (A)



(S.K. AGARWAL)

MEMBER (J)