

CENTRAL ADMINISTRATIVE TRIBUNAL, JABALPUR BENCH, JABALPUR

Original Application No. 506 of 1995

Jabalpur, this the 6th day of September, 2004

Hon'ble Shri M.P. Singh, Vice Chairman
Hon'ble Shri Madan Mohan, Judicial Member

1. Ramshankar, S/o. Nandlal, Casual Labour
(Discharged) CPWI-Raigarh.
2. G. Dharma Rao, S/o. Appa Rao, Casual Labour
(Discharged) under CPWI-Raigarh.
3. Bishwanath, S/o. Ujjail, Casual Labour
(Discharged) under CPWI - Raigarh.
4. Manmatha Nath Dolai, S/o. B.Dolai, C/Labour,
(Discharged) under CPWI-Raighrh.
5. Ratan Lal Kbatik, S/o. Gujrati Lal Khatik,
C/Labour, under CPWI-Raigarh,
(Discharged).

Address : C/o. Sri D.K. Dutta, H.N.Ashirwad,
of all Sindhi Colony, Hemunagar, District
& P.O. Bilaspur. ... Applicants

(By Advocate - Shri M.R. Chandra)

V e r s u s

1. The Union of India, through
the General Manager, S.E. Rly.,
Garden Reach, Calcutta-43.
2. The Divisional Railway Manager,
South Eastern Railway, Bilaspur,
District & P.O. Bilaspur.
3. Sr. Divisional Personnel Officer,
South Eastern Railway, Bilaspur,
Distt. & P.O. Bilaspur, M.P. ... Respondents

(By Advocate - Shri M.N. Banerjee)

O R D E R

By Madan Mohan, Judicial Member -

By filing this Original Application the applicants
have claimed the following main reliefs :


"(i) to quash the impugned order of discharge
dated 10.5.90, 29.8.90 and 25.9.90 (Annexure A-1,
A-1A & A-1B) for its being violative of principles of
natural justice, statutory provisions, Constitutional



protection, mala fide etc.

(ii) to direct the respondent to reinstate them with all consequential benefits and back wages for period intervening discharge and reinstatement in conformity with the principle of 'Corrective Justice' in a welfare conception of administration."

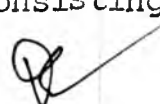
2. The brief facts of the case are that the General Manager, South Eastern Railway conveyed his personal sanction to the Divisional Railway Manager, S.E. Rly. Bilaspur for recruitment of 900 posts of additional Casual Labours in the administrative interest. The applicants being educated unemployed and having all the requisite qualification and eligibility conditions for the said post of Casual Labour made applications to the Railway authorities at Bilaspur. The respondents formed a selection committee consisting of three eminent officers to screen, scrutinise and verify such applications and on their due recommendations, selection and empanelment the applicants were given appointments as Casual Labour and posted in different stations in the Bilaspur Division. The names of the applicants were included in the Live Casual Labour Register. The applicant No. 1 and 5 were selected by the screening committee from suitable SC/ST candidates and the rest 3 applicants from the general quota. On completion of 4 months period of service they would be made entitled for temporary status with regular pay scale and also regularisation in due course. Later on, on some false complaint and misrepresentation the applicants Nos. 1, 3 & 4 were abruptly discharged on 10.5.1990 and applicant No. 2 on 29.8.90 and applicant No. 5 on 25.9.90. According to the discharge note the applicants were black listed and their names were recorded in the Black List Register and were even debarred from their future re-engagement in any capacity all over the Indian Railways. No opportunity of hearing was given



to them before passing this discharge note. But the respondents due to vested interest has retained Shri Ram Murat Kori a Casual Gangman listed in the said discharge list, in service under the IOW, S.E. Railway, Bilaspur. Several representations were made to the authorities/respondents for cancellation of the discharge orders after reconsideration and awarding opportunity to defend. It was on 3.12.90 the Sr. Divisional Personnel Officer, Bilaspur informed the applicants that these discharged persons have been told very categorically that unless the vigilance enquiry is completed and the guilty persons responsible for issuing such false certificates are punished no action shall be taken in this recruitment. The applicants waited for the result of this enquiry. When the applicants personally approached the authorities to know the result of the declared vigilance investigation, they were orally informed that these are still in progress and not yet been finalised. The applicants financially crippled and ruined completely and become helpless and dependant on the mercy of the Railways assurance so given. In the month of June, 1995 the applicants came to know that the authority of Bilaspur has done nothing to consider the cases of retrenched Casual Gangman. Hence, the applicants have filed this Original Application claiming the aforesaid reliefs.


3. Heard the learned counsel for the parties and perused the records carefully.

4. It is argued on behalf of the applicants that the applicants were given appointment as Casual Labour after verifying and scrutinising the applications by a selection committee consisting of three eminent officers. Their



appointments as Casual Labourers were discharged and they were black listed and their names were recorded in the black list register and were even debarred from their future re-engagement in any capacity all over the Indian Railways. The alleged proceedings against the Railway employees who have issued the false certificates is still pending for a long period. Already more than 9 years have elapsed, the applicants are out of job. They are in acute financial crises. The Railway authority due to vested interest has retained Shri Ram Murat Kori a Casual Gangman who was listed in the discharge list, in service under the IOW, SE Rly., Bilaspur. The applicants requested for several times to the respondents but were given false assurances that they shall be considered as soon as the enquiry against the Railway Personnels who have issued the false certificates is completed. But the same has not yet been completed. Hence, the applicants are entitled for the reliefs claimed by them.

5. In reply it is argued on behalf of the respondents that in the letter dated 14.2.1990 it was indicated that if the working certificate/caste certificate and service certificate are found false at any time during their engagement their services will be terminated automatically without any notice. Thus the empanelment of the applicants were subjected to the certificates produced being found authentic. The applicants were recruited on the basis of service certificates submitted by them which on verification were found not genuine. Hence, their services were terminated automatically without any notice. The vigilance case against the Railway employee who have issued the false and forged service certificates is still in process. The applicants were discharged after about 3 months after considering thorough investigations and con-



clusive proof from wage bill muster roll etc. that they never worked with the Railway in the past. The respondents have not given any assurance to the applicant. Hence, the applicants are not entitled for any relief as prayed for.

6. After hearing the learned counsel for the parties and on careful perusal of the records, we find that the applicants were given appointment as Casual Labourers by the respondents and they had worked in the Department of the respondents for several months and on the allegation of the false service certificates they were discharged vide orders dated 10.5.1990, 29.8.1990 and 25.9.1990. According to the respondents no vigilance case was lodged against the applicants. While vigilance case is pending against the Railway staffs who have issued the false and forged service certificates, which is not completed so far. The applicants have alleged to be very poor persons as they were appointed as Casual Labourers in the year 1990. The respondents have not told the result of the vigilance case against the said Railway staffs who have issued the false and forged service certificates, even after the expiry of more than 12 years. No show cause notice were served on the applicants and no enquiry was also conducted while it seems to be necessary in the interest of justice. This case does not appear to be a case of simple discharge. In a similar case in OA No. 357/1991, this Tribunal has dealt with the similar issue and the same impugned order dated 10.5.1990 has been quashed and set aside. The Tribunal vide its order dated 12th March, 1997 has passed the following order in OA No. 357/1991 :

"6. We have heard the learned counsel of parties and perused the pleadings on record. We find from the order of discharge dated 10.5.1990 (Annexure A-1) that there were certain conditions which are reproduced as under :

- Note : 1. These candidates should not be re-engaged in any circumstances and should not be re-engaged in future also in any capacity all over the Indian Railways.
2. The date of discharge should be intimated to this office.

3. Their names are recorded in the black list register.
4. Further FIR with police will be lodged under Section 420 of IPC for cheating and forgery against the candidates and Sr. Subordinates who have issued false certificates, later separately.
5. The period for which they have worked be paid only.
6. No AEM/PWI should issue service certificates in favour of these candidates.

This issues with the approval of the competent authority.

Obviously the conditions quoted above are harsh. In view of the same, the applicants cannot get any appointment in the Railways. Thus does not appear to be a case of simple discharge. Enquiry is necessary in the matter before holding the applicants guilty of misconduct. The order discharging the applicants is therefore vitiated. Accordingly, we quash the order of discharge. The applicants be taken back in service. However, they will not be entitled to back wages. The department will be at liberty to hold an enquiry and pass fresh order within three months hereof after giving due opportunity to the applicants."

7. Hence, when similar case has been dealt with by this Tribunal, the order passed in OA No. 357/1991, quoted above shall mutatis-mutandis apply to the present OA. Accordingly, in terms of the aforesaid decision, the present Original Application is disposed of. No costs.

(Madan Mohan)
Judicial Member

(M.P. Singh)
Vice Chairman

पृष्ठान्कन सं ओ/न्या.....जबलपुर, दि.....

पदिनिधि अने दिनांक:-

- (1) सचिव, उच्च न्यायालय नगर प्रशासन, जबलपुर
- (2) आवेदन श्री/श्रीमती/शु.....के कार्यालय
- (3) प्रत्यक्षी श्री/श्रीमती/शु.....के कार्यालय
- (4) संलग्नता, प्रेषण, प्रकाशन, प्रकाशित

सूचना एवं आवश्यक कार्रवाई के लिए

Shri MR. Chandra
Shri MR. Bhatnagar

उप निदेश

"SA"

issued