

CENTRAL ADMINISTRATIVE TRIBUNAL, CALCUTTA BENCH
KOLKATA

LIBRARY

O.A.No.350/01505/2015

Date of Order : 24-09-2015

Present : Hon'ble Mr Justice G. Rajasuria, Judicial Member
Hon'ble Ms Jaya Das Gupta, Administrative Member

INDIAN RAILWAYS COAL & ASH
HANDLING MAZDOOR UNION & ORS.

.....Applicants

-Versus-

S.E. RAILWAY

.....Respondents

For the applicants : Mr. P.C. Das, Counsel
For the respondents : None

ORDER (ORAL)

JUSTICE G. RAJASURIA, JM,

Heard learned counsel for the applicant. Despite service of notice on the respondents there is no response. This O.A has been filed seeking the following reliefs :

"8.(a) Leave may be granted to the applicants to file this application jointly under Rule 4(5)(b) of the Central Administrative Tribunal (Procedure) Rules, 187 as the applicants have a common grievance;

(b) To pass an appropriate order directing upon the respondent South-Eastern Railway authority to consider the claim of the applicants and the members of the Union for absorption/regularization as Coal & Ash Handling Contract-Labourer in the Santragachi, Shalimar Loco-sheds in the Khargpur Division of South-Eastern Railway in the light of the various letters issued by the Railway Board dated 30.12.2004 (Annexure A-5), 01.03.2005 (Annexure A-6), 28.04.2006 (Annexure A-8), 25.07.2007 (Annexure A-9), 25.07.2007 (Annexure A-10) and 18.02.2009 (Annexure A-11);

(c) To pass an appropriate order directing upon the respondent authority to consider the claim of the applicants and the members of the Union for absorption in the railway establishment those who have performed the job of contract-labourer of Coal & Ash Handling for more than two decades in the light of the various decisions passed by the Hon'ble Supreme Court as well as Hon'ble High Court annexed in this original application along with all consequential benefits;

(d) To pass an appropriate order directing upon the respondent authority to implement the letters issued by the Deputy Chief Labour Commissioner (Central) Kolkata dated 26.08.2014 and 18.11.2014 being Annexure A-14 and A-15 of this original application so that the case of the applicants may be considered by the General Manager, South-Eastern Railway, Garden Reach, Kolkata within a specific time so that the contract-labourers may not be exploited by the railway authority any further and to consider their claim for absorption/regularization as a regular employee in the railway establishment in the light of the direction issued by the Deputy Chief Labour Commissioner (Central) Kolkata;

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(e) To pass an appropriate order directing upon the respondent authority to consider the claim of the present applicants as well as the members of the Union which has been made by the Secretary of the Union vide representation dated 30.04.2010 so that being the poor contract-labourer they will not be further exploited by the railway authority.

(f) Costs;

(g) Any other appropriate relief or reliefs as Your Lordships may deem fit and proper."

2. Learned counsel for the applicant would draw the attention of this court to Annexure a-8 communication dated 28.04.2006 issued by the Director, Establishment LR to the General Manager(P), South Eastern Railway :

"Please refer to Boards letter of even number dated 31.8.2004 on the above cited subject wherein Railway had been asked to give one more opportunity to the Coal & Ash Handling Contract Labourers to be considered for absorption/ regularization in Railways.

South Eastern Railway is requested to commence the screening process for absorption/ regularization of Coal & Ash Handling Contract Labourers in Railways expeditiously as per extant instructions on the subject under intimation to Board."

Annexure A-5 Communication dated 30.12.2014 is also extracted hereunder:

"Further to instructions issued vide Board's letter cited above. Board have decided that special dispensation in regard to Educational Qualification may be given while considering regular absorption of Contract Labourers of Coal & Ash Handling.

It is therefore desired that read and write may be kept as the minimum educational qualification while considering regular absorption of Coal & Ash Handling Contract Labourers. However, the genuineness and authenticity of each and every claimant for regularization is to be established and condition of need for their employment, medical fitness and age would continue.

Further it is stated that the contract labourers of various Labour Co-Operative's engaged in Coal & Ash Handling absorbs and placed in similar circumstances may also be considered for regular absorptions subject to the conditions stated above."

Again Annexure A-9 (page 45) communication dated 25.07.2007 is extracted hereunder:

"Reference Board's letters of even number dated 14.06.2005 & 06.11.2005 on the above cited subject laying down yardsticks in terms of which the Coal & Ash handling contract labourers could be considered for absorption.

In view of the representation from Indian Railways Coal, Ash & Workshop Handling Mazdoor Union, Board have decided that, besides fulfilling the prescribed conditions laid down in the above mentioned letters, to establish the genuineness and period of work, only the following documents may be scrutinized:-

- (a) Identity cards / Pass issued by the contractor and countersigned by the Railway Supervisor for the period claimed to have worked as Contract Labour;
- (b) Copy of Certificate / Affidavit attested by the Notary Public in regard to age proof;
- (c) SC/ST certificate if the applicant wants the benefit;
- (d) Any proof of working period.

Further developments of the case may be reported to Board's office from time to time."

would point out that those higher authorities are in favour of the contract labourers giving employment. The Association namely, the applicant No.1 and the others petitioned the General Manager for considering the absorption of the contract labourers, but there is no response. Hence he prays for a direction in this regard.

3. In view of the factual position set out supra we are of the considered opinion that the following direction could be given.

The General Manager, South Eastern Railway shall consider the representations dated 30.04.2010 and 14.12.2013 and give a speaking order to the applicant within a period of 2 months from the date of receipt of a copy of this order and communicate the same to the applicant.

We have gone into merits of the case
O.A is disposed of. No costs.

(JAYA DAS GUPTA)
ADMINISTRATIVE MEMBER

(G. RAJASURIA)
JUDICIAL MEMBER

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