

Dakshin Railway Employees Union, Trivandrum Division

Vs

General Manager, Southern Railway and Others

Writ Petition (Civil) No. 332 of 1986

(O. Chinnappa Reddy, S. Natarajan JJ)

23.02.1987

ORDER

CHINNAPPA REDDY, J. -

A Division Bench of this Court consisting of Desai and Ranganath Misra. JJ. gave certain directions in Inder Pal Yadav v. Union of India ((1985) 2 SCC 648 : 1985 SCC (L&S) 526), modifying a scheme prepared by the Railway Administration for the purpose of absorbing 'retrenched Railway Casual Labour'. Incorporating the directions of the court, the Railway Board issued a circular to the General Managers of all Indian Railways, paragraph 5.1 of which is relevant and is as follows :

"5.1. As a result of such deliberations, the Ministry of Railways have now decided in principle that casual labour employed on projects (also known as "Project casual labour") may be treated as temporary on completion of 360 days of continuous employment. The Ministry have decided further as under :

(a) These orders will cover :

(i) Casual labour on projects who were in service as on January 1, 1981; and

(ii) Casual labour on projects, who, though not in service on January 1, 1981, had been in service on Railways earlier and had already completed the above prescribed period (360 days) of continuous employment or have since completed or will complete the said prescribed period of continuous employment on re-engagement after January 1, 1981.

(b) The decision should be implemented in a phased manner according to the schedule given below :

#Length of service (i.e. continuous Date from which employment) may be treated as temporary (i) Those who have completed five years 1-1-1981 of service as on 1-1-1981; (ii) Those who have completed three years 1-1-1982 but less than five years of service as on 1-1-1981; (iii) Those who have completed 360 days but 1-1-1983 but less than three years of service as on 1-1-1981; (iv) Those who complete 360 days after 1-1-1984 or 1-1-1981. the date on which 360 days are completed whichever is late.##

2. The petitioners before us who are 149 in number claim that they are entitled to the benefits of the modified scheme and they pray that they should be forthwith taken back into employment. The

Railway Administration admits that 84 of the petitioners are entitled to the benefits of the scheme as they were in employment on January 1, 1981 and that the remaining 65 petitioners are not entitled to the benefits of the scheme as they were not in service on January 1, 1981 having been retrenched sometime prior to the date. The contention of the Railway Administration is clearly wrong in view of the express provisions in paragraph 5.1. (a)(ii) that "these orders will cover casual labour on projects, who, though not in service on January 1, 1981, had been in service on Railways earlier and had already completed the above prescribed period (360 days) of continuous employment or have since completed or will complete the said prescribed period of continuous employment on re-engagement after January 1 1981." A direction will, therefore, issue to the respondents to include the petitioners in the scheme for absorption as formulated pursuant to the directions of the court.

3. Shri Krishnamurthy, learned counsel for the Railway Administration brings to our notice the difficulty which will be experienced by the Railway Administration if without any limitation persons claiming to have been employed as casual labour prior to January 1, 1981 keep coming forward to claim the benefits of the scheme. We understand the difficulty of the Administration and we therefor, direct that all persons who desire to claim the benefits of the scheme on the ground that they had been retrenched before January 1, 1981 should submit their claims to the Administration before March 31, 1987. The Administration shall then consider the genuineness of the claims and process them accordingly. The writ Petition is allowed accordingly.

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