

Catering Cleaners of Southern Railways

Vs

Chief Commercial Supdt., Southern Railway

(N.D.Ojha, P.B.Sawant JJ)

Civil Misc. Petn. No. 28079 of 1988 in Writ Petn. (Civil) No. 19 of 1986 with Contempt Petn. No. 163 of 1989, Writ Petn. (Civil) No. 498 of 1986

27.08.1990

ORDER

1. Having heard learned Counsel for the parties and gone through the directions issued by this Court in its judgment dated February 4, 1987 (AIR 1987 SC 777 : 1987 Lab IC 619), we are of the opinion that the respondents were required:

(1) to absorb the petitioners and make them departmental employees on the expiry of a maximum period of 9 months from the date of the order, namely, February 4, 1987;

(2) to refrain in the meantime from employing contract labourers and to continue the services of the petitioners in the capacity in which they were working on the date of the decision of this Court, and;

(3) to regularise the services of such petitioners who have been absorbed and made departmental employees.

2. It has been asserted by the learned Counsel for the respondent and not disputed by the learned Counsel for the petitioner that all the petitioners have been absorbed and made departmental employees with effect from April 1, 1987. Further, all such petitioners who had completed 120 days of their services have been given temporary status and are being paid salary (as distinguished from daily wages) which is admissible to an employee having temporary status. The grievance of the petitioners, however, is as has been urged by their learned Counsel, that they were entitled to be treated as departmental employees and paid salary accordingly with effect from February 4, 1987 itself. We find it difficult to agree with this submission.

3. We are, therefore, of the opinion that in the matter of absorption and making the petitioners departmental employees, there has been no disobedience of the order of this Court. As regards the question of regularising the petitioners in the sense of giving them a permanent status in employment, it has been pointed out by the learned Counsel for the respondent, and in our opinion rightly, that the question of making a particular employee permanent will arise only after a permanent post has become available. Learned Counsel for the respondent has stated that all such petitioners who have been given temporary status and are being paid regular salary as such shall be made permanent in due course. In this view of the matter, no further direction is needed. However, to make it sure that none of the petitioners is prejudiced in future, it is made clear that till they are

made permanent or till they retire the services of none of the employees falling in the category stated above shall be terminated except in a case where it becomes necessary on account of some departmental exigency.

4. All the petitions listed today are accordingly disposed of.

Order accordingly.

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