

V.M. Chandra

Vs

Union of India

Civil Appeal No. 11010 of 1996

(S. Rajendra Bab, S.N. Phukan JJ)

06.04.1999

JUDGMENT

S. Rajendra Babu, J.

1. The appellant before us was initially engaged as a Technical Mate on a daily rate of Rs. 6.70 with effect from August 23, 1976 and thereafter at the daily rate which varied from Rs. 6.70 to Rs. 15.40. From time to time her services were utilised as Technical Mate as the required qualification is a diploma passed or failed. She was continued in service and she was declared to have attained temporary status in 1981. When the appellant represented that she had not been conferred with temporary status in Group 'C' the Chief Engineer took the view that the appellant was not entitled to be employed in Group 'C'. Thereafter an application was presented to the Central Administrative Tribunal, Ernakulam Bench (hereinafter referred to as 'the Tribunal') seeking the relief of absorption in Group 'C'. The Tribunal set aside the action of the Chief Engineer and remitted the matter to the concerned authorities. Again the decision was rendered against the appellant and she approached the Tribunal. On this occasion the Tribunal directed the Chairman of the Railway Board to examine this matter and give appropriate relief. The Chairman of the Railway Board stated as under :-

"There are no category of posts designated as Technical mates on the Railways ...Zonal Railways have no power to introduce any new designation/category of posts. Further, designations are meant to describe the incumbents of posts in regular scales. Casual labourers who do not hold any post are not to be described by any 'designation' prescribed for regular employees and are to be described only as casual labour."

In his view a casual employee is only a casual employee and a casual employee cannot be differentiated from another casual employee and the designation of post cannot be attached to such an employee. The Tribunal, therefore, found helplessness to give relief to the appellant and dismissed the application filed by the appellant. Hence this appeal.

2. The order dated October 30, 1985 by which the appellant was appointed clearly indicates that her services had been engaged as a Technical Mate since she had completed the course of diploma in technical subjects. The view taken by the Chairman of the Railway Board that there is no post of Technical Mate available for absorption itself appears to be incorrect inasmuch as the Railway Board by its communication No. P(S) 443/Misc./MP/MAS/Vo.X stated as follows :-

"Board have communicated their approval for considering the casual labour technical mates in the Geographical jurisdiction of the division for absorption as skilled

Artisans Gr. III in scale Rs. 950-1500 against 25% of direct recruitment quota alongwith serving casual labour artisans."

This communication clearly indicates the manner in which a person whose services have been engaged as a Technical Mate on casual basis has to be treated. If this is the mode of providing an employment, then we fail to understand as to how the Chairman of the Railway Board could not apply the same to the appellant and give appropriate relief. Considering the long period of service the appellant had put in and the qualification possessed by her, namely, a diploma in technical subjects, it would certainly entitle her to be absorbed as a skilled Artisan in Grade III in scale 950-1500 against post available in respect of direct recruitment quota. If this aspect had been borne in mind by the Chairman of the Railway Board, we do not think that he would have rejected the case of the appellant.

3. The view taken by the Chairman of the Railway Board that there cannot be any designation assigned to a casual employee baffles all logic because there can be engagement of a peon on casual basis and there can be engagement of a clerk on casual basis and it cannot be said that both are casual employees and, therefore, there cannot be any distinction between a peon and a clerk as they are engaged on casual basis. In that view of the matter we do not think that the view taken by the Chairman of the Railway Board was justified.

4. Considering the number of occasions the appellant had approached the Tribunal and the authorities for relief, we do not think that any useful purpose will be served by merely setting aside the ordered the authorities and remitting the matter to them. On the other hand, it would be an extraordinary case where we should direct the respondents to absorb the appellant as a skilled Artisan in Grade III in appropriate scale as indicated in the communication No. P(S) 443/I/Misc./MP/MAS/Vo.X of the Board and the benefit thereof should be given to the appellant. However, the appellant will not be entitled to any higher monetary benefits than what she was drawing hitherto. The appellant will be fitted in the appropriate scale by giving increments and continuity in service on that basis. These directions shall be given effect to within a period of three months from today.

5. We allow this appeal by setting aside the order made by the Tribunal and allow the application filed by the appellant before the Tribunal. But in the circumstances of the case, there shall be no order as to costs.

Appeal allowed.