

SH. RAMESH KUMAR
v.
UNION OF INDIA AND ORS.

A

OCTOBER 28, 1996

[K. RAMASWAMY AND G.B. PATTANAIK, JJ.]

B

Service Law :

Casual labour—Absorption and appointment of—Opportunity given to all persons to make application for absorption—Appellant not opted for appointment—Question of discrimination does not arise—Also question of appointment of Junior and denial thereafter to appellant does not arise.

C

CIVIL APPELLATE JURISDICTION : Civil Appeal No. 14581 of 1996.

From the Judgment and Order dated 17.5.90 of the Central Administrative Tribunal, New Delhi in O.A.No.1201 of 1987

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Sudesh Menon for the Appellant.

Ms. Indra Sahney, P.K. Malik, Ms. Meeta Sharma, P.J. Mehta and D.V. Desai for the Respondents.

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The following Order of the Court was delivered :

Leave granted.

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We have heard learned counsel on both sides.

This appeal by special leave arises against the order of the Central Administrative Tribunal, New Delhi made on 17.5.1990 in OA. No. 1201/87.

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The primary contention of the appellant which *prima facie* appeals us is that since the appellant was a casual worker and had attained the temporary status, throwing him out of service while his junior was retained, is an arbitrary action. We gave notice to the respondents by order dated

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A April 30, 1996 directing them to explain as under:

B “Learned counsel for the petitioner pointed out Annexure—AA to the SLP paper book and stated that the petitioner was engaged as Choukidar on January 13, 1986 and he was conferred temporary status on January 8, 1987. On Rohtas Kumar son of Ganpat Ram was also engaged as Choukidar with effect from February 28, 1986 and he was conferred temporary status on February 23, 1987 and both of them have been given medical fit under Category C.I. It is also stated that Rohtas Kumar had already been regularised after the schemes was wound up while the petitioner being the senior was entitled for regularisation or posting elsewhere.”

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Pursuant there to, an affidavit has been filed by Mr. Ved Prakash, Divisional Personnel Officer of the Northern Railway, New Delhi, in paragraph 7 at page 44 it is stated as under:

D “In reply to paragraph 4(c) I say that Central Organisation for operations and Information System is separate and distinct entity from Northern Railways. In view of Annexure-‘A’, the applicant’s services come to an end on 10.9.1987 on account of winding up of the organisation. It is submitted that most of the staff was absorbed by the centre for Railway Information System (CRIS). E A list of 20 Casual Labourers who could not be absorbed under Respondent No. 4, was forwarded to the Chief Engineer Construction Northern Railway Kashmere Gate Delhi by COIS for re-engagement provided there was requirement for work. It is respectfully submitted that about seven casual labourers, F including Shri Rohtas Kumar s/o Shri Ganpat Ram were spared as per requirement and accordingly they were offered appointment by the construction department. It is further submitted that after winding up the organisation, the applications from the willing staff were invited by the respondent No. 4 if G they wanted appointment in centre for Railway Information system. It appears that the petitioner never applied for appointment and as such he was not considered for appointment.”

The Central Organisation for Operations and Information System is separate and distinct entity from Northern Railways. In view of Annexure— H ‘A’, the applicant’s services came to an end on 10.9.1987 on account of

winding up of the said organisation. However, 20 casual workers were directed to be absorbed at different places. It was stated that though opportunity was given to all the persons to make an application for absorption, since the appellant had not opted for appointment, he was not considered for appointment. In view of the fact that he was given an opportunity but he had not availed of the same, the question of discrimination does not arise; nor the question of appointment of the junior and denial thereafter to the appellant does not arise. A B

The appeal is accordingly dismissed. No costs.

G.N.

Appeal dismissed.