

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION**

**WRIT PETITION NO. 1184 OF 1997
WITH
CIVIL APPLICATION NO. 665 OF 2003
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Union of India & Anr.

...Petitioners

vs.

Shrfi Lachamappa Adivappa & Ors.

....RespondentS

Mr.N.V. Masurkar for Petitioners.

None for Respondents.

CORAM : S.C. GUPTE, J.

16 JUNE 2016

P.C. :

Heard learned Counsel for the Petitioner – Union of India.

2 The petition challenges an order passed by the Central Government Industrial Tribunal (“CGIT”) on a reference by the appropriate government under the Industrial Disputes Act. In January 1984, Respondent Nos.1 to 18 obtained employment with the Railways as “Casual Labourers” on the basis of Casual Labour Service Cards (“cards”) showing their earlier appointments with the Railways under Permanent Way Inspector / Permanent Way Depot, Alnavar. The appointment was pending verification of the cards. On the basis of information received, investigation was carried out. The Railways found the cards to be bogus. The notice of termination was thereupon given to the Respondents. The Respondents went into conciliation and on failure of conciliation, a reference was made to CGIT, Mumbai by the Government of India, Ministry of Labour, Mumbai. In its impugned order dated 10 March 1995, the CGIT ordered reinstatement of Respondent Nos.1 to 18 without back wages. That order is in challenge in the present writ petition.

3 The impugned award is on the footing that the termination of services of the workmen was on the basis that they had secured appointment by producing bogus cards. The issue before the Labour Court was whether or not the management of South Central Railway, Hubli, proved that the workmen in question had secured employment by producing bogus labour cards. The Labour Court found that the perusal of the cards produced before the court *prima facie* show that they were cards of the Railways and signed by the concerned parties. On the face of the cards, there was no reason for coming to the conclusion that these cards were bogus. Apart from the cards themselves, there was no other evidence or testimony produced by the Petitioner to support its case that the cards were bogus. There were three witnesses proposed to be examined by the Railways by producing their affidavits by way of examination in chief. The first witness filed his affidavit, but could not be made available for cross-examination. The Railways, in the premises, filed the affidavit of the second witness, who also upon his transfer could not be produced for cross-examination. Even that second affidavit was treated as cancelled. The Railways thereafter produced the third witness, but on the date the witness was examined, the Railways had not placed on record the purported bogus cards. The witness in his cross-examination agreed to produce the cards on the next date. On the next date, though the cards were produced, the witness never offered himself for cross-examination, with the result that even his testimony on the cards could not be taken into consideration. In the premises, the CGIT came to the conclusion that whereas the cards themselves did not indicate that they were in any way bogus, there was no testimony to bear out the alleged bogus nature of the cards. In the premises, the CGIT held that the termination of services of the workmen could not said to be valid. Since they were casual labourers and the workmen had not adduced any evidence whether the actual work for which they were employed was continuous till date, the CGIT declined to grant any back wages, but ordered their reinstatement.

4 Learned Counsel for the Petitioner submits that the evidence in the case was not over and the Petitioner could have produced further evidence in support of this case that the cards were indeed bogus. There is nothing to show

on record that the Railways, at any time, had asked for production of further evidence in the matter. No such document is placed on record. It is not disputed that there is no material on record to show that such application was made to CGIT. Secondly, it is submitted by Counsel that the workmen themselves had not led any evidence. When the cards, on the face of them, did not show that they were not genuine, it was for the Railways to show that they were bogus, since that was the basis on which the workmen were dismissed.

5 In view of the fact that there was absolutely nothing on record to indicate that the cards produced by the Respondents for obtaining employment with the Petitioner were bogus, there being no indication on the face of the cards themselves that they were bogus, the conclusion of the CGIT cannot be termed as perverse or impossible. On the basis of material before the court, the conclusion is certainly a possible conclusion.

6 Thus, there is no merit in the petition. Rule is discharged and the petition is dismissed.

7 In view of the disposal of the petition, the civil applications will not survive . They are also disposed of.

(S.C. Gupte, J.)