

Court No. - 1

Case :- WRIT - A No. - 503 of 2018

Petitioner :- Ram Deo And Others

Respondent :- U.O.I. Thru. General Manager Northern Railway New Delhi And

Counsel for Petitioner :- Praveen Kumar, Saroj Kumar Verma, Som Kartik Shukla, Sudhanshu Srivastava

Counsel for Respondent :- A.S.G., Mahendra Kumar Mishra

Hon'ble Ramesh Sinha, J.

Hon'ble Manish Kumar, J.

1. Heard Sri Som Kartik Shukla, learned Counsel for the petitioners and Sri Mahendra Kumar Mishra, learned Counsel for respondent Nos.1 and 2 and perused the material on record.

2. By means of instant writ petition, the petitioners pray for quashing the impugned judgment and order dated 13.10.2017 passed in O.A. No. 133 of 2018, *Ram Deo & Others versus Union of India* and rejection order dated 29.06.2012, contained in Annexure Nos.1 and 2 to the writ petition. The petitioner further pray for a direction in the nature of Mandamus commanding the opposite parties to regularize their services with effect from the date when other applicants of TA No. 47 of 1998 were regularized and pay other ancillary benefits, like, back wages etc. and put at par with them.

3. The case has a long chequered history as the petitioners are fighting for their cause since 1985. Initially, thirty petitioners filed Writ Petition No. 1596 of 1985 before this Court and later on it was transferred to the Central Administrative Tribunal, where it was registered as TA No.47 of 1988. The said petition was decided by the Tribunal vide order dated 20.09.1991 with a direction to the Railways to dispose of representation filed by the petitioners, after giving them an opportunity of hearing and to decide that those who had worked

120 days are entitled for absorption and in case the applicants are successful in their claims they may be given appointment in terms of **Inderpal Yadav v. Union of India and the Railway Board Circular issued thereafter**. As the order has not been complied with by the opposite parties, they filed Contempt Petition No. 38 of 1992. However, the opposite parties rejected the representations by means of order dated 09.06.1992 with an observation that none of the petitioners have completed 120 days continuously. Being not satisfied, they preferred Original Application No. 451 of 1993 before the Tribunal which was dismissed vide judgment and order dated 19.05.2000. The said judgment was assailed before this Court in Writ Petition No. 1908 (MB) of 2000 and the said writ petition was allowed vide judgment and order dated 16.11.2009 setting aside the judgment and order dated 19.05.2000 and remanded the matter to the Tribunal for deciding it afresh. Thereafter, the Tribunal has partly allowed the Original Application No. 451 of 1993 vide judgment and order dated 22.07.2011. Though the opposite parties preferred Review Petition No. 14 of 2011 but it was dismissed vide judgment and order dated 12.03.2012. When the opposite parties preferred Writ Petition No. 432 (SB) of 2012 assailing the judgment and order dated 22.07.2011, it was disposed of vide judgment and order dated 09.04.2012 modifying the impugned judgment and order dated 22.07.2011 to the extent that the case of opposite parties shall be considered, in accordance with the the Indian Railways Establishment Manual as well as in accordance with law. When the orders were not complied with by the opposite parties, the petitioners preferred Contempt Petition No.1 of 2012 before the Tribunal which was dismissed vide order dated 02.01.2013. Being aggrieved, the petitioners approached this Court by filing Writ Petition No.334 (SB) of 2013 challenging the order dated 02.01.2013 passed in Contempt Petition, but the said petition was dismissed with liberty to the petitioners to approach the Tribunal for redressal of grievances. Thereafter, they preferred Original Application No. 133 of 2013 which

was dismissed vide impugned order dated 13.10.2017. Hence, the instant writ petition has been filed.

4. Learned Counsel for the petitioners submits that as per provision of Indian Railways Establishment Manual Volume II Chapter XX, if a Casual Labour completes 120 days continuously, he becomes entitled for temporary status. In Writ Petition No. 432 (SB) of 2012 filed by the Union of India before this Court, a direction was given to consider the claim of the petitioners herein in accordance with Indian Railway Establishment Manual as well as in accordance with law. He further submits that though the opposite parties have regularized similarly situated persons, but the claim of the petitioners has been rejected on the ground that they have not completed 120 days continuously. In para 22 of the writ petition, the petitioners have averred that Shri Shiv Bihari and Shri Kamlesh Kumar who were engaged on similar fashion, have been regularized, but in case of petitioners, they are adopting a different attitude. In support of his submissions, he has placed reliance on *Neelima Srivastava v. State of U.P. and others [(2021) 4 UPLBEC 2701]* and *Satya Deo Pandey and others v. State of U.P. and others [(2016) 1 UPLBEC 449]*. Lastly, he submits that the Tribunal has not considered all these pleas, hence the impugned judgment and order is liable to be set aside.

5. Learned Standing Counsel on the other hand has submitted that there is neither automatic grant of temporary status after completion of 120 days of continuous employment nor is there any automatic absorption of service as per aforesaid provisions of Indian Railways Establishment Manual. More over, the petitioners have not worked in Railways since October, 1981. Since beginning, the claim of the petitioners is that as they have worked for more than 120 days, by virtue of Railway Board Circular, they have acquired temporary status. Lastly, he submits that as on date, the petitioners might have

crossed 60 years and no relief, as claimed in the writ petition, can be granted in their favour.

6. After considering the submissions made by the learned Counsel for the parties, we are of the considered opinion that though the petitioners are fighting for their cause for regularization since 1981 on the ground that they have completed 120 days continuously, but they have not brought on record to show that they have worked with the opposite parties 120 days continuously. It transpires from the impugned order that admittedly, the applicants are not continuing in railway service and they have not been working since October 1981 and thereafter they were never re-engaged. More over, it transpires from the record that at the time of filing of writ petition, the petitioners are in the age group of 54 to 58 years. Even, petitioner Nos.1, 9 and 11 have died and in their place, legal heirs have also been substituted. Learned Counsel for the petitioners has failed to point out any illegality or infirmity in the impugned order. In the facts and circumstances of the case, the case laws cited by the learned Counsel for the petitioners are distinguishable. Thus, for all practical purposes, the writ petition has lost its efficacy and is liable to be dismissed.

7. Accordingly, the writ petition is **dismissed**.

[Manish Kumar, J.] [Ramesh Sinha, J.]

Order Date :- 3.1.2023

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