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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No. 1482 of 1996

New Delhi, this the 11th day of August, 1997

Hon'ble Dr. Jose P. Verghese, Vice Chairman (J)
Hon'ble Mr. N. Sahu, Member (A)

1. Bhagwan Saroop S/o Nathi Ram
2. Raghu Raj S/o Kumar Pal
3. Mukesh Kumar S/o Sat Prakash
(All ex Khalasis under CIC Delhi)
(By Advocate - Shri H.K. Gangwani)

- APPLICANTS

Versus

Union of India - through:

1. General Manager, Northern Railway,
Baroda House, New Delhi
2. Divisional Railway Manager, Northern
Railway, State Entry Road, New Delhi
(By Advocate - Mrs. B. Sunita Rao)

- RESPONDENTS

JUDGMENT (Oral)

By Dr. Jose P. Verghese, VC (J) -

The applicants in this case were working as Catering Khalasis under Catering Incharge, Delhi since July, 1992 and continued to work for 8 months until the respondents struck them off for duty on the ground that a criminal case has been initiated against them by filing FIR against the applicants. The representations made to reinstate them were not accepted for the reason that the applicants could not be taken back on duty due to the pendency of the criminal case and it was also stated that once the criminal case is completed they will be taken back on duty.

2. The FIR against the applicants was proceeded with and by an order dated 27.7.1995 in the FIR Case No. 49/93 the Metro Politan Magistrate, Delhi discharged all the accused including the applicants giving liberty to the respondents to further investigate the case under Section 173(8) of the Criminal Procedure Code

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and file a report within three months. The pleadings including the reply of the respondents indicates that nothing turned out in furtherance to the said liberty granted by the Metro Politan Magistrate in this case. In view of this, the applicants are seeking reinstatement with all consequential benefits including back wages.

3. The counsel for the applicants also brought to our notice two similar decisions of this Tribunal in the cases of Shri Om Dutt Vs. Union of India through Northern Railway, Baroda House, New Delhi & others, O.A.No.663 of 1994 decided on 18.4.1995; and Shri Om Prakash S/o Shri Ram Kishore Vs. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi and others, O.A.No.59 of 1994, decided on 29.11.1995; the applicants therein were also prosecuted on the allegation of procuring employment on the basis of forged certificates and this Tribunal passed orders of reinstatement with back wages. The learned counsel for the applicants also relied on a decision of the Hon'ble Supreme Court in the case of Sagir Ahmed Vs. Union of India & others 1993(7) SLR 64; wherein the petitioner was also reinstated but without back wages.

4. We have considered the entire case and the pleadings and we have come to the conclusion that this is a fit case wherein a direction should be issued to reinstate the applicants with effect from the date of the order of the Metro Politan Magistrate, Delhi, namely, 21.7.1995. Since the respondents have not passed any appropriate orders after the conclusion of the said criminal case, the respondents shall reinstate the applicants forthwith in the same post as they were working at the time when they were discharged.

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5. We have also considered the question of payment of back wages. We are of the considered view that in view of the fact that the applicants had only worked for 8 months prior to their discharge and the order of the Metro Politan Magistrate is dated 27.7.1995, the applicants would be entitled to 50% of the back wages from 27.7.1995 till the date of reinstatement. It goes without saying that the said amount calculated is recoverable from the officers whomsoever are responsible for keeping the applicants away, after a genuine internal enquiry in accordance with the rules and in the circumstances of the case. With this, this OA stands disposed of. No order as to costs.

Parasambaran
(N. Sahu)
Member (A)

J
(Dr. Jose P. Verghese)
Vice Chairman (J)

rkv.