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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

OA No.894/96

Date of decision 16.1.1997

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

Sh. Jagdish Prashad s/o Punnu Singh
C/o Mohinder Singh, Rly. Colony,
Thomson Road, New Delhi.

... Applicant

(By Advocate Shri D.S. Mahendru)

Vs.

1. Union of India through
The General Manager,
Central Railway, Bombay VII
2. The Divisional Railway Manager,
Central Railway, Jhansi

.... Respondents

(By Advocate Sh. O. P. Kshtriaya)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

Heard the learned counsel for both the parties.

2. The applicant is aggrieved by the action of the respondents in not reinstating him in service after his acquittal in the criminal charge (Case No.533/86) by the Court of Chief Judicial Magistrate, Jhansi dated 1.12.1994. The applicant claims that he was initially appointed on 4.5.83 under the Chief Telecom. Inspector (Microwave), Central Railway, Jhansi till 11.9.85 as casual labourer. After the judgment of the learned Chief Judicial Magistrate, Jhansi, he had made a representation to the respondents on 4.1.1995 for re-engagement with continuity of service. He has also enclosed copy of the certificate issued by the Chief Telecom Inspector showing that he had worked from 4.5.83 to 18.7.85 with intermittent breaks. Shri D.S. Mahendru learned counsel has relied on the judgment of this Tribunal in Ashok Kumar and Ors. v. Union of India and Ors (OA 3055/91) decided on 18.9.92 and the judgment of the Supreme Court
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in State of Punjab v. Shambhu Nath Shingla (1992 (1) SC SLJ 92). He, therefore, claims that the applicant should be reinstated as casual labourer as he has been acquitted in the criminal charge by the Chief Judicial Magistrate, Jhansi with seniority, but he does not press for the back wages during the period he was not in service.

3. I have seen the reply filed by the respondents and I have also heard Shri O.P. Kshetriya, Id. Counsel for the respondents. According to the respondents, the applicant had not been granted temporary status and he did not turn up for duty after 3.9.85 when the criminal case ^{was} pending against him or thereafter.

4. The facts of the case in State of Punjab v. Shambhu Nath Shingla (supra) are distinguishable from the facts and circumstances with the instant case as the applicant before us has not been suspended. However, the judgment of the Tribunal in Ashok Kumar and Ors. V. U.O.I. & Ors (supra) would be applicable, particularly having regard ~~also~~ to the fact that the applicants in that case had also been dealt with ⁱⁿ the criminal case 533/86 decided on 1-12-1994.

5. In the facts and circumstances of the case, therefore, the respondents shall ~~be~~ reengage the applicant in service as casual labourer if they have work of this nature available and the services rendered by him previously will count towards seniority. The applicant shall not be entitled to any back wages since the applicant was not granted temporary status and it is an admitted fact that he had not worked for the intervening period.

6. O.A. is disposed of as above. No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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