

6

In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. OA-1591/89

Date: 17.4.1990.

Shri Lila Ram & Others Applicants

Versus

Union of India & Others Respondents

For the Applicants Shri V.P. Sharma, Counsel

For the Respondents Shri Jagjit Singh, Counsel

CORAM: Hon'ble Shri P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Shri D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed
to see the judgement? *Yes*

2. To be referred to the Reporter or not? *No*

(Judgement of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice-Chairman)

The applicants who have worked as Gangmen in the Office of PWI Inspector, Western Railway, Narnaul (Haryana), filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be directed to absorb them on regular basis, to not disengage them from service and to pay them arrears of back wages.

2. The applicants are illiterate persons. According to the learned counsel for the applicants, they had worked on the Open Line and all of them completed more than ^{or} 120 days of service continuously, thereby acquiring temporary status under the provisions of the Indian Railway Establishment Manual. They were not issued any Casual Labour Cards. They have not been engaged by the respondents for some time even though they have worked for several years with the Railways.

3. The period of service put in by the 10 applicants is not supported by any documentary evidence produced by

Q

....2...

by them. Only in respect of two applicants, particulars of the work done have been certified by the PWI, Western Railway, in the certificates given by him on 27.2.1988 (Annexures A-4 and A-5 at pages 20-21 of the paper-book). The particulars given relate to Shri Shri Ram (applicant No.9) and Shri Makhan (applicant No.8). The respondents have given the service particulars of the applicants in the Annexures to the counter-affidavit certified by the Assistant Engineer, Western Railway. According to the particulars furnished by the respondents (vide Annexure R-1 on pages 33-40 of the paper-book), the period of service put in by each of the applicants is as under:-

<u>S.No.</u>	<u>Name of the Applicant</u>	<u>Total number of working days</u>
1.	Lila Ram	118 (from 3.2.86 to 15.4.1987)
2.	Mahabir	367 (from 25.11.82 to 20.2.1985)
3.	Ram Swarup	198 (from 24.11.82 to 21.9.1984)
4.	Mahabir	455 (from 28.12.82 to 11.7.1986)
5.	Mahabir	186 (from 21.12.1982 to 20.9.1984)
6.	Jagdish	746 (from 7.3.83 to 30.9.1988)
7.	Gyrsi Ram	241 (from 21.12.85 to 30.9.1986)
8.	Makhan	324 (from 4.3.83 to 3.7.1985)
9.	Shri Ram	309 (from 11.10.85 to 30.9.1986)
10.	Jagmohan	395 (from 27.11.83 to 30.9.1986)

4. The applicants have contended that they have been disengaged without giving any notice of termination and without giving any retrenchment compensation, as envisaged in Section 25-F of the Industrial Disputes Act, 1947. As against this, the respondents contended that the protection of Section 25-F of the I.D. Act, 1947 is not available to them as they have not completed 240 days' working in a calendar year except in the case of applicant No.6. They have also contended that the applicants left their jobs in 1986 on their own and that no notice of termination is required to be given to them. It has further been contended that the applicants have not acquired temporary status as they were engaged as Project Casual Labourers who would acquire temporary status only on completion of 360 days of continuous work.

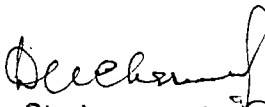
5. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. We do not see any force in the contention of the respondents that the applicants had abandoned service. In our opinion, the employer is bound to give notice to the employee in such a case calling upon him to resume his duty. In case the employer intends to terminate his service on the ground of abandonment of service, he should hold an inquiry before doing so. We have considered this point in detail in our judgement dated 16.3.1990 in OA-78/87 (Beer Singh Vs. Union of India & Others).


6. In the light of the above, we hold that the disengagement of the services of the applicants is not

Q

legally sustainable. We, therefore, direct that they shall be reinstated in service within a period of three months from the date of receipt of this order. We do not, however, direct the respondents to pay to them any back wages. After reinstating them, the respondents will be at liberty to engage ^{them} in the Zone of the Railways in which they had worked, or failing this, anywhere else in India, depending on the availability of work.

The parties will bear their own costs.


(D.K. Chakravorty)
Administrative Member
17/4/1990


17/4/90
(P.K. Kartha)
Vice-Chairman(Judl.)