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In the Central Administrative Tribunal
Principal Bench, New Delhi

Regn. No. CA-166/89

Date: 18.5.1990.

Shri Gurdial Singh
& Others

.... Applicants

Versus

Union of India through
General Manager,
Northern Railway & Ors.

.... Respondents

For the Applicants

.... Shri V.P. Sharma, Counsel

For the Respondents

.... Shri O.P. Kshatriya, 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 were initially engaged as Casual Labour Loco Khalasi and were posted at Locoshed, Northern Railway, Rewari. They acquired temporary status on completion of 120 days of continuous work. They had also been screened in accordance with the relevant rules and instructions. Their grievance in the present application filed under Section 19 of the Administrative Tribunals Act, 1985, is that while some of them have been allowed to continue in service, some others have not been put on duty allegedly on the ground that there are no vacancies. None of them has been regularised so far.

2. The respondents have admitted in their counter-affidavit that all the applicants, except applicant No. 15 (Shri Om Prakash) have attained a temporary status, and that they have been screened in accordance with the relevant rules. According to them, applicant Nos. 1, 2,

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5, 6, 7, 17, 18, 20, 21, 22 and 23, have been allowed to continue in service, while the engagement of other applicants could not be continued due to non-availability of sanctioned posts.

3. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. The applicants have not only acquired temporary status after putting in 120 days of continuous service, but also have become entitled to the protection of Section 25F of the Industrial Disputes Act, 1947, as they have completed 240 days of continuous service in a calendar year. In view thereof, the termination of the services of the applicants Nos. 3, 4, 8 to 16, 19 and 24 to 26 from service for any reason whatsoever, is not legally sustainable. No show-cause notice was issued to them before disengaging them. No retrenchment compensation was paid to them. The impugned action is, therefore, in violation of the provisions of the Indian Railway Establishment Manual as also Section 25F of the Industrial Disputes Act, 1947.

4. In the conspectus of the facts and circumstances of the case, we direct the respondents to reinstate the applicants whose services have been dispensed with in violation of the provisions of the Indian Railway Establishment Manual and Section 25F of the Industrial Disputes Act, 1947. The applicants should, as far as possible, be accommodated in the vacancies available at places where they had worked at the time of their disengagement. In case, this is not feasible, they should be accommodated in other Divisions or Establishments of the respondents, depending on the availability of vacancies. The respondents

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should also consider the case of absorption of all the regular posts in accordance with the relevant rules.

They are directed to comply with the above directions within a period of one month from the date of communication of this order. In the facts and circumstances of the case, we do not, however, direct payment of back wages to those whose services had been terminated.

There will be no order as to costs.

D. K. Chakravorty
(D. K. Chakravorty)

Administrative Member

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P. K. Kartha
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(P. K. Kartha)

Vice-Chairman (Judl.)