

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 480/89
T.A. No.

199

DATE OF DECISION 14.09.1990

Shri Anil Kumar & Another Petitioner

Shri V.P. Sharma Advocate for the Petitioner(s)

Versus

Union of India through the Respondent
 General Manager, Northern Railway & Others

Shri P.S. Mahendru Advocate for the Respondent(s)

CORAM

The Hon'ble Mr.P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr.D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGMENT

(of the Bench delivered by Hon'ble Mr. D.K. Chakravorty,
 Administrative Member)

The applicants, who have worked as Khalasis in the Northern Railway, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be directed to regularise them from the date of their selection/screening and that they be given back wages and other service benefits.

2. The facts of the case in brief are as follows. The applicants 1 and 2 were initially engaged as casual labourers in June, 1978 and August, 1977 respectively. They acquired temporary status on completion of 120 days of continuous work without any break in service. The respondents have admitted this in their counter-affidavit.

3. The applicants were called for screening by the DRM Office, Bikaner and were screened by the Competent Authority and their names were placed in the panel for absorption as regular employees but they have not been regularised so far. This also has been admitted by the respondents in their counter-affidavit.

4. Instead of regularising the applicants, the respondents have disengaged them from service. The applicants have alleged that this is in contravention of provisions of Section 25 F of the Industrial Disputes Act, 1947. The contention of the respondents is that due to dieselisation on the Railways, the cadre of loco staff was reduced and as such the applicants were not given regular appointment due to paucity of regular posts.

5. We have gone through the records of the case carefully and have considered the rival contentions. In a similar case decided on 18.5.1990 (OA 166/89 - Gurdial Singh & Others Vs. Union of India through General Manager, Northern Railway & Others), to which both of us are parties, we have held that termination of services for any reason whatsoever is not legally sustainable in respect of a Railway employee who has acquired temporary status after putting in 120 days of continuous service and also after he has become entitled to the protection of Section 25 F of the Industrial

Disputes Act, 1947 on completion of 240 days of continuous service in a calendar year. Admittedly, no show cause notice was issued to the applicants before disengaging them. No retrenchment compensation was also paid to them. In our opinion, the impugned action is, therefore, in violation of the provisions of the Indian Railway Establishment Manual as also Section 25 F of the Industrial Disputes Act, 1947.

6. 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 should also consider the case of absorption of all the applicants in 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.

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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.

Declarant

(D.K. CHAKRAVORTY)

MEMBER (A)

14/9/90

Arun
14/9/90

(P.K. KARTHA)
VICE CHAIRMAN (J)