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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 593/89

Date of decision: 30.3.1990.

Shri Karan Veer

.....Applicant

Vs.

Union of India through
Secretary, Ministry of
Railways & Others

.....Respondents

For the Applicant

.....Shri D.N. Goburdhan,
Counsel

For the Respondents

.....Shri Arvind Sirha,
Counsel

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 judgment? *yes*
2. To be referred to the Reporters or not? *No*

(The judgment of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

The applicant, who has worked as a Khalasi in the Northern Railway filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that he be reinstated with full pay, backwages and all consequential benefits and that he be permanently absorbed in the post of Khalasi.

2. The applicant was appointed as a temporary Khalasi in 1973 and worked in the said post upto 1983. On 15.7.83, he was given scale rate and his wages were given in the
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regular pay scale. He was posted in permanent Gang No.25 under respondent No.5 (Permanent Way Inspector, Jakhal, Haryana). He was ^{eligible and} had a Provident Fund Account, which is given to permanent Railway Employees. He was appointed after he was medically declared fit. He earned increments in the years 1984, 1985 and 1986. He was also given Dearness Allowance, House Rent Allowance, Travelling Allowance etc.

3. However, on 19.10.1986 his wages were reduced to Rs.260/- from Rs.700/- per month. In November, 1986, respondent No.5 (Permanent Way Inspector, Jakhal) told him that he will be engaged only on payment of daily wages of Rs.260/- per month. The applicant was not agreeable to the same. On account of this, he was not allowed to work any more.

4. The case of the respondents is that the applicant was appointed on 5.8.1976 as casual labourer and not as a regular employee. The respondents served on him a memorandum dated 23.4.1987/12.5.1987 with a view to holding an enquiry against him under Rule 9 of the Railway Servants (Discipline & Appeal) Rules, 1968. The charge against him was that he was guilty of being unauthorisedly absent from duty with effect from 3.3.1987 to 2.4.1987 and thereafter. An inquiry was held in which the Inquiry Officer found that he was a habitual absconder as he remained absent for a number of days in the years 1983, 1984, 1985 and from 1.6.1985 to

12.6.1985, 18.6.1985 to 6.7.1985, 29.7.1985 to 16.10.1985, 25.10.1986 to 2.7.1987 and so on. He has also concluded that the applicant was not a willing worker and that he had not completed 120 days of continuous service. Thereafter, by an order dated 9.9.1987, the respondents imposed upon him penalty of removal from service.

5. We have gone through the records of the case and have heard the learned counsel of both parties. No order of termination has been impugned in the application which was filed on 3rd January, 1989. The respondents have produced the photocopies of the memorandum dated 23.4.1987/12.5.1987 together with the statement of Articles of Charge, the Inquiry Report and the order of removal passed by them. They have also produced the statement of leave account of the applicant (vide Annexures R-1 to R-5, pages 22 to 32 of the Paper-Book). The applicant has not filed any rejoinder-affidavit controverting the statements made in the counter-affidavit. In his representation submitted to the respondents in December, 1987, the applicant referred to the Departmental Inquiry initiated against him by order dated 12.5.1987. He has not, however, challenged the validity of the said departmental proceedings or sought for quashing the same.

6. During the oral arguments, the counsel for the applicant, however, stated that even now, the applicant is prepared to work on daily rates. *an*

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7. He, however, did not refer to the Departmental Inquiry or challenged^{ed} its validity.

8. As the applicant has been removed from service after holding an inquiry against him in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968, we are of the opinion that the applicant is not entitled to the reliefs sought in the present application.

9. The application is accordingly dismissed. The parties will bear their own costs.

D. K. Chakravorty
(D.K. CHAKRAVORTY)
MEMBER (A)
30/3/89

P. K. Kartha
30/3/89
(P.K. KARTHA)
VICE CHAIRMAN (J)