

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(A)

Regn.No.CA 1532/88
with MP No.1572/88

Date: 24-5-89

Shri Mohkam Singh

.....Applicant

Vs.

Union of India & Others

.....Respondents

For the Applicant

.....Shri B.B. Sharma,
Counsel

For the Respondents

.....Shri P.P. Khurana,
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? *Yes*

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

The applicant, who has worked as Khallasi Chowkidar in the office of Chief Project Manager, Railway Electrification Kota filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be directed to take him on duties from the date he reported to resume ^{his} duties, that the respondents be directed to treat him on duty since the day he reported to respondent No.3 (Chief Project Manager, Railway Electrification) for duty and that they be directed to give all consequential reliefs such as salary, promotion, seniority etc

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2. The facts of the case in brief are that the applicant was employed as Khallasi Chowkidar by respondent No.3 on 18.3.82. He applied for leave from 29.4.83 to 3.5.83. During this period, he fell ill. He sent medical leave application for sanctioning further leave from 4.5.83 to 7.5.83. The leave was not sanctioned and the respondents marked him absent. He was also not allowed to resume duties after he was declared medically fit.

3. The respondents have stated in their counter affidavit that no oral orders or instructions were given to the applicant for not joining duty. He himself absconded from duty on his own volition. He did not apply for leave at any time. The respondents have contended that the application is hopelessly barred by time and is not maintainable. Since the applicant himself has absconded from duty, his case was treated as that of abandonment of job. He was paid for the duties performed by him.

4. The application was listed for hearing on 2.9.88., when the Tribunal directed issue of notice to the respondents on the question of admission and limitation. Thereafter, the respondents have filed their counter affidavit. The case was listed for admission on 16.5.89 when we went through the records of the case carefully and heard the learned counsel of both parties.

5. The learned counsel of the applicant relied upon the decisions of the Supreme Court in L. Robert. D'souza Vs. the Executive Engineer, Southern Railways and Another, AIR 1982 SC 854 and in Ram Kumar Vs. U.O.I., AIR 1988 SC 390. In L. Robert.

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D'Souza's case, the applicant who has worked as Gangman in the Southern Railway continuously for a period of 6 years was denied the status of a temporary/regular workman and he was treated as a daily rated casual labourer. The Supreme Court held that "the termination of his services was illegal and invalid and it was directed that he should be continued in service."

6. Ram Kumar's case dealt with the regularisation of services of casual labourers who had worked for periods varying between 10 to 16 years in the construction department of the Northern Railway. The Supreme Court directed the respondents to consider the claims of each of the petitioner promptly and make appropriate orders for their regularisation.

7. The aforesaid decisions of the Supreme Court would not apply to the facts and circumstances of the present case. The alleged termination of services of the applicant in the instant case took place in May, 1983 and the applicant has not given sufficient cause for the delay in seeking his remedy in the appropriate forum. In MP No.1572/83, the applicant has stated that due to paucity of funds and lack of knowledge he did not do so. Another reason given is that the respondents gave him assurance that he would be allowed to join duty. We are not impressed by these pleas taken by the applicant in MP for condonation of delay. We are of the opinion that the applicant had not been vigilant and did not pursue his claim for over 5 years .

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8. In the facts and circumstances of the case we see no merit in the present application and the applicant will not be entitled to any of the reliefs sought by him. The application is, therefore, dismissed at the admission stage itself with no order as to costs.

D.K. Chakravorty
24/5/1989
(D.K. CHAKRAVORTY)
ADMINISTRATIVE MEMBER

P.K. Kartha
24/5/89
(P.K. KARTHA)
VICE CHAIRMAN(J)