

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

O.A. 1614/88

Date of decision: 16.11.1988

Shri Sunil Kumar

..... Applicant

Vs.

Union of India

..... Respondents

CORAM:- Hon'ble Shri P.K. Kartha, Vice Chairman

Hon'ble Shri P Srinivasan, Member(A).

For the Applicant ..... Shri R.K. Sharma, Advocate

For the Respondents ..... Shri Arvind Sinha, Advocate

( The judgement of the Bench is delivered by  
Shri P. Srinivasan, Member (A) )

This matter has come up before us for considering the question of ad-interim relief prayed for by the applicant. As the hearing of the matter proceeded, we felt that <sup>the</sup> ~~main~~ application itself could be disposed of at this stage itself.

2. We may now state the brief facts of the case. The applicant was engaged as a casual labourer in the office of the Inspector of Works, Delhi Division, Northern Railway. According to the applicant his services were regularised as Khalsi w.e.f. 10.4.1988. Shri Sharma learned counsel for the applicant relies on a document appearing as Annexure A to the application, said to be a certified true copy of the original dated 9.4.88 which reads as under:

" Please take on duty Shri Sunil Kumar son of Shri Manohar Lal, Khalasi/Safaiwala, from 10.4.88. He is appointed by DRM Office. "

Shri Sharma also relies on an identity card and railway pass

P.S. Sharma

issued to the applicant. According to Shri Sharma the immediate superior officer of the applicant informed the applicant on 17.8.1988 that he could not be continued in service and after that <sup>the</sup> applicant has not been allowed to resume duty.

3. Shri Arvind Sinha, learned counsel for the respondents denies that the applicant was appointed on regular basis. The copy of the document at Annexure A to the application is not a letter of appointment and it is not known who had issued it. On the other hand Shri Sinha submitted, the applicant had only been given provisional appointment vide letter dated 5.4.88 issued to him by the Assistant Personnel Officer III, Northern Railway, New Delhi. The letter stated that appointment was purely provisional pending screening, subject to final verification of his casual labour card. After this was issued the respondents verified the labour card of the applicant and found that it was a <sup>P</sup> fictitious card. As a result the A.P.O. Northern Railway issued a letter to the applicant dated 12.8.88 stating that the labour card furnished by him in connection with his appointment was "bogus and false" and that therefore, the applicant was not a fit person to be retained in service. He was, therefore discharged from service with immediate effect. Shri Sharma had earlier submitted that no order terminating the service of the applicant <sup>had</sup> been served on him. Shri Sinha countered this by saying that the order dated 12.8.1988 referred to above was indeed served on the applicant. Shri Sinha produced an acknowledgement, without date, stated to have been signed by the applicant. Shri Sinha further submitted that applicant who was appointed only on provisional basis was liable to have his services terminated if his service card was found to be fictitious and therefore, the termination of his services was valid.

4. According as we accept the version of facts

*P. S. Sinha*

submitted on behalf of the applicant or the respondents the applicant has been out of employment since 18.8.1988 or 12.8.1988. The applicant says he has wrongfully been kept out of employment without a valid order of termination. The respondents say his services were lawfully terminated by letter dated 12.8.1988 because he had produced a fictitious Casual Labour Card: in other words he was punished for an act of misrepresentation. We are of the view that such punishment could not be imposed on the applicant without giving him an opportunity of being heard, since that is an elementary principle of natural justice. In view of this we direct the respondents to confront the applicant with the preliminary findings arrived at by them regarding <sup>M K</sup> service card produced by ~~the applicant~~ <sup>him</sup>, obtain his explanation therefor either in person or in writing as he may choose to do, and then take a decision about his continuance in service. This process should be completed as expeditiously as possible but not later than 31.12.1988. If the charge of production of bogus card is found to be proved the termination of the applicant's service can be confirmed and if the applicant proves otherwise he should be taken back to duty within one month thereafter on the same terms and conditions on which he was working earlier. Since we are not directing the respondents to take the applicant back into service immediately and to pay him back wages it is necessary for the respondents to complete the process of enquiry and come to a decision well within the date mentioned by us above. If it is decided to take the applicant into service on his proving the Casual Labour Card to be genuine, he will be entitled to all back wages from the date from which he was put out of service.

5. The application is disposed of on the above terms but in the circumstances of the case, parties to bear their own costs.

( P. Srinivasan )  
Member

Dated: 16.11.88,

( P.K. Kartha )  
Vice Chairman