

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL : PRINCIPAL  
BENCH : NEW DELHI.

O.A.1726 of 1988.

Harkesh Sharma ... Applicant.  
versus  
Union of India and others... Respondents.

P R E S E N T :

The Hon'ble Shri B.C.Mathur, Vice Chairman (A)

The Hon'ble Shri G.Sreedharan Nair, Vice Chairman(J).

For the applicant- Shri B.S.Mainee, Advocate.

For the respondents- Shri R.S.MahendrA, Advocate.

Date of hearing 24.4.90.

Date of Order - 26.4.90.

O R D E R :

G.Sreedharan Nair, Vice Chairman :

The applicant alleges that he was a regular employee under the respondents. According to him, he had worked as a Casual Labour with effect from 1.8.84 to 2.2.1986 and again from 24.7.1987 to 28.4.88 and that he was regularly appointed thereafter. By the communication dated 28.7.1988, he was discharged from service on the ground that he had obtained employment as Casual Labour by misrepresentation and fraudulent means. It is urged that as the applicant was a regular employee, without the initiation of disciplinary proceeding he should not have been discharged from service and that the order is violative of the principles of natural justice. He prays for quashing the order and for reinstatement with consequential benefits.

2. In the reply filed by the respondents, the allegation of the application that he was a regularly employee is denied. It is stated that he was appointed

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only as an unskilled substitute as Electric Cleaner purely on a provisional basis subject to final verification of his casual labour card of previous casual labour service and clearly indicating that in case his Casual Labour Card is found bogus, on verification, his services will be terminated. In the circumstances, it is contended that the order of discharge is not open to attack.

3. <sup>WZB</sup> It is argued by the counsel of the applicant that since the order of termination specifically states that it is on account of misrepresentation and fraudulent means in obtaining employment, it casts a stigma and, as such, without affording an opportunity of being heard the order should not have been passed and ~~as such~~ it is violative of the principles of natural justice and hence cannot be sustained. The argument would have had force if the applicant was at least a temporary employee under the respondents. The order of appointment (Annexure-R/1) shows that he was appointed only as un-skilled substitute as Electric Cleaner provisionally pending screening and subject to final verification of his Casual Labour Card of his previous casual labour service. There was also the specific stipulation that in case the Casual Labour Card is found as bogus, on verification, his services will be terminated without observing any formality.

4. Though there is an averment in the application that the applicant was a regular employee under the respondents, the said averment has been denied by the respondents in the

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reply. Besides, the respondents have also stated that as a Casual Labour the applicant did not even acquire temporary status. The counsel of the applicant invited our attention to a decision of the Jabalpur Bench of this Tribunal in Hardayal v. Union of India, ATR 1988 (1) CAT 207/. That was a case where the applicant had acquired temporary status and hence it was held that the termination of his service without initiation of the departmental proceeding, for securing employment by misrepresentation based on forged casual labour card is not sustainable. As it is not established that the applicant in the present application had acquired temporary status having continuously worked for the railways as a casual labour, the said decision is of no assistance.

5. In the circumstances, the termination of service of the applicant in accordance with the stipulation in the order of appointment cannot be assailed by the applicant.

6. The application is dismissed.

  
( G. Sreedharan Nair )

Vice Chairman (J)

  
( B.C. Mathur ) 26.4.90  
Vice Chairman (A).

S.P.Singh/  
25.4.90.