

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 1902/88

Date of decision: 20.4.1990.

Shri Main Pal & Others

...Applicant

Vs.

Union of India

...Respondents

For the Applicant

...Shri R.L. Sethi,
Counsel

For the Respondents

...Shri O.N. Moolri,
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?
2. To be referred to the Reporters or not?

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

The five applicants in this case had worked as Safaiwalas in the Northern Railway. Their grievance is that their services were terminated without giving them any show cause notice or holding an inquiry against them in accordance with the Railway Servants (Discipline & Appeal) Rules, 1968.

2. The period during which they have worked as Safaiwalas has not been mentioned in the application except in the case of the 1st applicant. It has been stated in the application that after the Supreme Court delivered its judgment in the case of Inder Pal Yadav Vs. U.O.I. & Others on 18.4.1985 (1985(2) SCC 648), the respondents engaged them as Casual ^{they} Labourers and have rendered 90 days continuous service as unscreened substitutes. They claimed that they were engaged after due verification of their character and antecedents.

3. The respondents have stated in their counter-affidavit that on verification, each of them was found to have produced

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bogus casual labour service card and their services were terminated for that reason. They have admitted that after the judgment of the Supreme Court in Inder Pal Yadav's case, Casual Labourers who had worked continuously for 120 days were allowed to apply for engagement as Casual Labourers. The applicants had produced affidavits to the effect that they had actually worked as Casual Labourers for over 120 days but on verification it came to light that the statements in the affidavits filed by them were false and that for a part of the period, they had not worked and they had produced bogus casual labour service cards. Their appointments were purely provisional pending screening and subject to verification to their casual labour service cards and their character and antecedents. It was stipulated in the offers of appointments that in case the casual labour service card was found to be bogus, the services would be terminated without observing any formalities.

4. We have carefully gone through the records of the case and have heard the learned counsel of both parties. The factual position in all these cases is that all the applicants had worked for 120 days continuously even though it has been alleged that their initial engagement was by fraud or misrepresentation. The applicants have not claimed that they acquired temporary status. Even in such a case, we are of the opinion that termination of the services cannot be effected without affording the persons concerned an opportunity to explain their conduct and without hearing them on the point. In these cases, no show cause notice

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was issued to the applicants before terminating their services. The respondents had conducted some verification on their own without associating the applicants in the inquiry and terminated their services on the basis of such inquiry. Evidently, the termination was due to the alleged misconduct on the part of the applicants. In such a case, we are of the opinion that the termination is not legally sustainable. The legal position in this regard has been discussed in detail in the Tribunal's judgment dated 6.4.1990 in a batch of applications (OA 305/89 and connected matters - Shri Ratti Ram & Others Vs Union of India & Others through the General Manager, Northern Railway).

5. In the conspectus of the facts and circumstances of the case, we hold that the impugned orders of termination dated 5.9.1988 and 6.7.1988 are not legally sustainable and the same are set aside and quashed. The respondents are directed to reinstate the applicants in service. In the facts and circumstances, we do not, however, direct payment of back wages to them. After reinstating them, the respondents will be at liberty to take appropriate action against them for any alleged misconduct after giving them a show cause notice and giving them an opportunity to submit their explanation. In case they ask for a personal

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hearing, that also should be afforded to them.

6. The respondents shall comply with the above directions within a period of three months from the date of communication of this order. The parties will bear their own costs.

D. K. Chakravorty
(D.K. CHAKRAVORTY)
MEMBER (A)

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

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