

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 575/86

~~XXXXX~~

199

DATE OF DECISION 8.11.91

CHARAN SINGH	Respondent APPLICANT
NONE	Advocate for the Respondent(s) APPLICANT
Versus	
UNION OF INDIA AND ANOTHER	Respondents
SHRI JOG SINGH	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. JUSTICE RAM PAL SINGH, VICE CHAIRMAN

The Hon'ble Mr. I.P. GUPTA, ADMINISTRATIVE MEMBER.

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

(Delivered by Hon'ble Mr. I.P.Gupta,
Administrative Member)

In this application, filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant was employed in Northern Railway as Khallasi on casual basis. He alleges that he was made permanent on a permanent post on 27.11.84.

2. The applicant received termination order dated 24.12.85 from Additional FA&CAO/T, Traffic Accounts Office, Northern Railway, mentioning therein SAO/T's approval on file.

3. The applicant has challenged ~~on the following grounds~~ ^{order} of termination on following counts:

(i) The order of termination simply said that "the services of Shri Charan Singh, Chowkidar s/o Shri Purnan, grade ~~196-232~~ ¹⁹⁶⁻²³² (RS) is hereby terminated with immediate effect, i.e., 24.12.85

- (A/N) and is, therefore, ^{cryptic} ~~co~~reptive and not a ^{speaking} ~~separate~~ order.
- (ii) No opportunity was given to him before the issue of the said termination order.
- (iii) Neither any notice was given nor any payment in lieu of notice made.
- (iv) Since he was holding a permanent post, the provisions of the Railway (Discipline and Appeal) Rules, 1968 should have been applied.

4. The applicant has sought for relief that he may be reinstated in his post and paid back wages. The impugned order dated 24-12-85 terminating his services be quashed.

5. The applicant came to know that the main reason for termination of his services was that before joining his services, he was ^{implicated} ~~empanelled~~ in some criminal cases but the applicant stated that in all those cases, he was acquitted ^{honourably} ~~under plea~~ and at the time of appointment of the applicant, his ant^ecedents were verified by the Police.

6. The learned counsel for the respondents drew our attention to Annexure R-1 wherein it was stated that as a result of screening test held on 6th & 7th April, 1964, the under mentioned casual labourers had been ~~empanelled~~ ^(Ours) ~~(Hours)~~ provisionally for appointment in Class IV Initial Recruitment grade 196-232(RS). The applicant's name figured at serial number 17. An attestation form was to be filled by the applicant and the form incorporated a clause to the effect that the furnishing of false information or suppression of any factual information in the attestation form would be a dis-qualification and is likely to render the candidate unfit for employment under the Government. When the applicant submitted this attestation form duly filled, he indicated that he had not been ever arrested in any case. The attestation form ~~has~~ as filled by the applicant is at Annexure R-2. The subsequent Police Report, however, showed

that the applicant was arrested in cases FIR No.716, 502 and 345 dated 7.9.80, 29.3.79 and 2.3.79, respectively. He was, therefore, asked to explain why, while filling attestation form, he had furnished incorrect information. The applicant, in his reply (Annexure R-5), stated that he was falsely implicated by the Police but he was quite innocent. He was acquitted honourably. He was not fined/convicted by any Court. As he was acquitted honourably, he felt no need for any mention of any false case against him. This was his sincere explanation. If still there was any lapse on his part, he humbly apologized for the same. Thereafter, the termination order as quoted earlier was issued on 24-12-85.

7. Analysing the facts in the case, it is seen that the applicant was ^{duly} empanelled, ^{though provisionally,} ~~after due empanelment~~ ^{appointed} and in a scale of pay (Annexure R-7) ^{he} ~~refers~~ ^{is}. He was also medically examined and found fit.

8. The learned counsel for the respondents, however, denied that he was made permanent on 27-11-84, nor is any indication available on records about him that he was ^{on} a permanent appointment. Therefore, this was a case of employment of the applicant as casual labour as Khallasia after provisional empanelment and after medical fitness. His services were terminated by an order simpliciter. His appeal against that order was rejected.

9. According to the Railway Establishment Rules, casual labour other than those employed at Projects shall be considered to have acquired temporary status on completion of four months' continuous service either in the same work or any other work of the same type, to which they may be shifted. Since he had completed four months' continuous service, he could be considered to have acquired temporary status. While ~~employees~~ ^{he} in accordance with the provisions of the Railway Servants (Discipline and Appeal) Rules, 1968, the said Rules do not apply to any person in casual

employment, yet the fact remains that a casual labour who should be deemed to have acquired temporary status and who could be considered for regularisation in turn, as he was empanelled and medically fit was given a marching order without notice or without any reasonable opportunity of being heard before issue of termination order, which on scrutiny of the case, is found to be due to the fact that the applicant has furnished a false in attestation form.

10. In the circumstances of the case, the principle of natural justice would warrant issue of a proper notice or an opportunity of being heard before the order of termination. Therefore, we direct that the applicant should be reinstated within a period of three months of the date of issue of this Order. No back wages need be paid for the days he did not work. His reinstatement would not, however, preclude the respondents from taking action for termination of his services according to Rules after giving him an opportunity to represent including personal hearing.

With the above direction, the case is disposed of.. There will be no order as to costs.

I.P. Gupta
(I.P. GUPTA)
MEMBER (A)

8/11/91

Ram Pal Singh
(RAM PAL SINGH)
VICE CHAIRMAN

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