

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 1488/87

Date of decision: 6.4.1990

Shri Raj Kumar

....Applicant

Vs.

Union of India through the
Secretary, Ministry of Railways
and Others

....Respondents

For the Applicant

....Shri Sanjeev Madan,
Counsel

For the Respondents

....Shri O.P. Kshatriya,
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
Shri D.K. Chakravorty, Administrative
Member)

The applicant, who has worked as an Electric
Khalasi in the office of respondent No.3(EFP, Special
Construction, Northern Railway) filed this application
under Section 19 of the Administrative Tribunals Act,
1985, praying for the following reliefs:-

- (a) to direct the respondents to include his name in the live casual labour register;
- (b) to direct them to engage him strictly according to the longevity of service;
- (c) to direct them to treat him as employed on regular basis from the date of his joining; and
- (d) to direct his reinstatement with full backwages and continuity of service.

2. The case of the applicant in brief is as follows.

He was employed as an Electric Khalasi on 13.12.1979 and continuously worked as such till 10.1.1981. Thereafter, he has not been engaged. He contends that he is entitled to get his name registered in the live casual labour register and to get work on the basis of his longevity of service. He has alleged that his non-engagement is arbitrary, illegal and unconstitutional, being violative of Articles 14, 16 and 21 of the Constitution.

3. The case of the respondents is that the applicant got employment on the basis of a casual labour service card, which was a bogus one. Respondent No.3 verified the applicant's previous service as stated in the labour service card and it came to light that it was a bogus one. He had never worked earlier at the places mentioned in the said card. In view of this, he was disengaged. They have also stated that the applicant absented himself and did not turn up after he came to know that his previous service card was to be verified.

4. We have carefully gone through the records of the case and have heard the learned counsel of both parties. Admittedly, the applicant has worked for more than 120 days continuously and he had acquired temporary status in accordance with the provisions of the Indian Railway Establishment Manual. Consequently, he would be entitled to the rights and privileges of a temporary Railway

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employee including the protection of the Railway Servants (Discipline & Appeal) Rules, 1968.

5. NO show cause notice was issued to the applicant before terminating his services. No inquiry was conducted in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968. This Tribunal in its judgment dated 6.4.90 (OA No.305/89 - Ratti Ram & Others Vs. Union of India through the General Manager, Northern Railway), the legal position applicable to such cases has been considered. In our opinion, disengagement of the services of a Casual Labourer, who has acquired temporary status except by following the procedure laid down in the Railway Servants(Discipline & Appeal) Rules, 1968, is not legally sustainable. In view thereof, we hold that the disengagement of the applicant in the present case is illegal.

6. The respondents are, therefore, directed to consider engaging the applicant as Casual Labourer in the zone in which he had worked earlier. In case, no vacancies are available in the said zone to accommodate him, they shall offer him work as Casual Labourer in any other zone depending on the availability of vacancies. His name should also be brought on the live casual labour register.

7. In the facts and circumstances of the case, we do not

direct payment of backwages to the applicant. After reinstating him as a casual labourer, the respondents will be at liberty to hold any enquiry against him for any act of misconduct in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968, if so advised.

8. The respondents shall comply with the above directions within a period of three months from the date of communication of a copy of this order.

The parties will bear their own costs.

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(D.K. CHAKRAVORTY)

MEMBER (A) 64/1990

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