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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI  
\* \* \*

O.A. NO. 251/37

DATE OF DECISION : 14.8.9

Shri Gurdial Singh

...Petitioner

Vs.

Union of India & Ors.

...Respondents

CORAM

Hon'ble Shri I.K. Rasgotra, Member (A)

Hon'ble Shri J.P. Sharma, Member (J)

For the Petitioner

...None

For the Respondents

...Shri O.N. Moolri

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter or not?

JUDGEMENT (ORAL)

(DELIVERED BY HON'BLE SHRI I.K. RASGOTRA, MEMBER (A))

The case has been on board since 6.8.1992, but none appears for the petitioner. Hence the case is dismissed in default of the petitioner.

2. Later on Shri Umesh Misra, counsel for the petitioner appeared and submitted that he was busy in the High Court and as soon as he became free, he came rushing to the Tribunal. He prays for recalling the order and restoration of the O.A. In the circumstances, we recall our earlier order dismissing the O.A. in default and the O.A. is restored.

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3. The main issue for adjudication which emerged after hearing the learned counsel for both the parties was if the petitioner was a regular employee of the respondents having attained temporary status after putting in the requisite service. The first sentence of the letter dt. 15.2.1982 issued by AEN, Ghaziabad, reads as under :-

"The above named Substitute Works Khallasi was appointed and given the benefit of OR/scale 196-232 w.e.f. 29.6.1977

The above statement clearly indicates that the applicant was placed in the regular scale of pay. Thus the controversy that the applicant was a Casual Labour who was employed by the respondents as and when his services were required is not borne out by the documents produced by the learned counsel for the petitioner which have been taken on record.

The second document is an order dt. 11.1.1979 placing the petitioner under suspension w.e.f. 30.12.1979. Thus the plea taken by the respondents in their reply that the petitioner abandoned his job w.e.f. 30.12.1978 and, therefore, his services were terminated being a Substitute Khallasi on daily wage basis is also incorrect. The third document indicates that the petitioner was medically examined on 3.6.1976 by the A.M.O. Northern Railway, Ghaziabad before he was appointed in service of the respondents. A copy of each of these documents has been furnished by the learned counsel for the petitioner to the learned counsel for the respondents.

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The veracity of these documents is not disputed. In these circumstances, the short point for adjudication is whether the petitioner, who was arrested and convicted by the Court of Sessions and who remained in jail from 30.12.1978 till he was acquitted by the Allahabad High Court on 13.5.1981, should be allowed wages for the period from 30.12.1978 upto 22.3.1982. It is evident from the record of the respondents that the petitioner was placed under suspension on 11.1.1979. He would not have been suspended unless he was a regular <sup>ly</sup> employee. Accordingly, when the petitioner was acquitted by the Hon'ble High Court, it was incumbent on the part of the respondents to pass suitable orders under relevant Rules with regard to the treatment of the period. In other words, the respondents should have taken a decision whether the period the petitioner remained in jail should be treated as duty or not spent on duty and paid accordingly. Since the respondents have not taken any decision in this regard even though period of over ten years has since elapsed, we order and direct that the said period shall be deemed as period spent on duty and the petitioner shall be paid his pay and allowances as due to him in the pay scale applicable to him at the relevant point of time. The above directions shall

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be carried out with utmost expedition and preferably within a period of sixteen weeks from the date of communication of this order. No costs.

AKS

*J.P. Sharma*  
(J.P. SHARMA)  
MEMBER (J)  
14.08.1992

*I.K. Rasgotra*  
(I.K. RASGOTRA)  
MEMBER (A)  
14.08.1992