

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 76/87
EXXNB

198

DATE OF DECISION 16.03.1990.

Shri Ramesh Kumar Applicant (s)

Shri Abhey Singh Advocate for the Applicant (s)

Versus

Union of India through the Respondent (s)
General Manager, Northern
Railway, Baroda House, New Delhi.

Shri O.N. Moolri Advocate for the Respondent (s)

CORAM :

The Hon'ble Mr. P.K. KARIHA, VICE CHAIRMAN(J)

The Hon'ble Mr. D.K. CHAKRAVORTY, 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. To be circulated to all Benches of the Tribunal ?

JUDGEMENT

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

The applicant, who has worked as casual labourer
(Khalasi) in the Northern Railway filed this application under
Section 19 of the Administrative Tribunals Act, 1985, praying that
he may be reinstated in service with full back wages and
continuity of service and for payment of arrears of wages from
1.5.1979 to 31.5.1985.

2. The applicant was engaged as a casual labourer(Khalasi)
14.10.83 and thereafter from May 1984 till
on 1.5.79 and he continuously worked in the post till 31.03.1985.

This is borne out from the casual labour card issued to him,
copy of which has been annexed at pages 6 to 10 of the Paper-Book.
He was also given regular pay scale of Rs.200-250/- with effect
from September, 1984. When he reported for duty on 1.6.1985, he
was verbally told by the Permanent Way Inspector, Jind, that his

services were terminated. He has alleged that the respondents did not apply the principle of "last come first go" as they had retained the services of workers junior to him while terminating his services.

3. The respondents have stated in their counter-affidavit that the applicant abandoned the job voluntarily on 14.10.1983. Again he worked during the period from 20.5.84 to 14.1.1985 and again abandoned the job himself. Thereafter, he was allowed to work from 14.3.1985 to 31.5.85 when there was need to petrol the track due to terrorist activities. On account of the improvement of situation, he was rendered surplus and was discharged. They have denied the contention that the principle of "last come first go" was not followed. They have also contended that he is not entitled to any retrenchment compensation.

4. We have carefully gone through the records of the case and have heard the learned counsel of both parties. In our judgment dated 16.03.1990 in OA 78/87 (Beer Singh Vs. Union of India & Others), we have held that the question whether a casual labourer has abandoned service or not would depend on the facts and circumstances of each case. The employer is bound to give notice to the employee in such cases calling upon him to resume his duty. In case the employer intends to terminate his services on the ground of abandonment of service, he should hold an inquiry before doing so.


5. In the instant case, the plea of abandonment of the

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service raised by the respondents has not been substantiated by them. Evidently, they did not call upon the applicant to resume his duty. The applicant had acquired temporary status and termination of his services without giving him a show cause notice is not legally sustainable.

6. In the light of the forgoing, we allow this application in part and order and direct as follows:-

- (i) The respondents shall reinstate the applicant as him in the zone in which he has worked, failing casual labourer(Khalasi). They are at liberty to post which anywhereelse in India depending on the availability of vacancies. We further direct that he should be given all the benefits and privileges to which a casual labourer acquiring temporary status is entitled to.
- (ii) In the facts and circumstances of the case, we do not make any order as regards payment of back wages to him. The service put in by him from 1.5.79 onwards will count for his seniority as casual labourer.
- (iii) The respondents shall comply with the above directions within a period of three months from the date of communication of this order.
- (iv) The parties will bear their own costs.


(D.K. CHAKRAVORTY)
MEMBER (A)
16/5 March, 1990


16/3/90
(P.K. KARTHA)
VICE CHAIRMAN (J)