

applicant in OA-1402/90 has worked as Khalasi from 23.5.1988 to 17.7.1988. They have challenged the termination of their services by oral order without giving them any notice and without holding an inquiry in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968.

3. The applicants have contended that they have acquired a prescriptive right for continuing to hold the posts and that their termination is not legally sustainable.

4. The stand of the respondents is that the applicants have not acquired the temporary status in accordance with the provisions of the Railway Servants Establishment Manual and, therefore, no notice is required to be given to them, or no inquiry is required to be held against them in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968. According to them, the services of the applicants have been terminated as the Casual Labour Cards indicating the casual labour service rendered by them were found to be bogus and false.

5. We have carefully gone through the records of the case and have considered the rival contentions. It appears from the records that the applicants have not worked as Casual Labourers for 120 days continuously so as to entitle them to acquire temporary status in accordance with the

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provisions of the Indian Railway Establishment Manual.

In view of this, the respondents were not under ^{an} obligation to hold an inquiry against the applicants in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968 before dispensing with their services.

6. There is, however, another aspect of the matter. The termination of the services of the applicants had been effected on the ground that their initial entry into service as Casual Labourers is tainted with fraud. The respondents have only conducted verification and inquiry in this regard behind the back of the applicants. In our view, this is clearly impermissible in law. The principles of natural justice would apply to cases of this kind which postulate that the person concerned should have been given a notice to show-cause against the action proposed against them and that they should be given a reasonable opportunity to defend themselves. This is the minimum required to be complied with before terminating their services. The respondents did not do so in these cases.

6. In the light of the above, we set aside and quash the impugned orders of termination and direct that the respondents shall reinstate the applicants as Casual Labourers at the places where they had earlier been engaged. If there is no vacancy to accommodate them there, they should

be considered for engagement at other places wherever the vacancies exist. In the facts and circumstances of the case, we do not direct payment of back wages to the applicants.

8. We make it clear that the respondents will be at liberty to give a show-cause notice to the applicants in regard to the alleged misconduct on their part, give them sufficient time to give a reply to the said notice and give personal hearing to them if they ask for the same. Thereafter, the respondents may issue appropriate orders. There will be no order as to costs.

9. Let a copy of this order be placed in all the three case files (OA-818/90, OA-822/90 and OA-1402/90).

(S.M. Dhoundiyal) 2/29/1
Administrative Member

(P.K. Kartha)
Vice-Chairman(Judl.)