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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI.

O.A.No.1695/90

Date of decision: 17.09.1991.

Shri Kamlesh Babu Sharma Applicant

Shri B.S. Mainee Counsel for the applicant.

Vs.

Union of India & Ors. Respondents

Shri B.K. Aggarwal Counsel for the respondents.

CORAM

The Hon'ble Mr. P.K. Kartha, Vice Chairman(J).

The Hon'ble Mr. B.N. Dhoundiyal, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *NO*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. Dhoundiyal)

The applicant Shri Kamlesh Babu Sharma, who has worked as Casual Labourer in the office of the respondents, filed this application under section 19 of the Administrative Tribunal Act, 1985, praying that the respondents be directed to place his name on the Live Casual Labour Register in accordance with the Railway Board's instructions and engage his service as per his seniority against the future vacancies.

2. The applicant was engaged as Casual Labourer under PWI, Northern Railway, Aligarh, w.e.f. 14.08.1982 and worked upto 14.02.1983 for 168 days. In accordance with the provisions of para 2501 of the Indian Railways Establishment Manual, Casual Labourers who have worked for 120 days continuously are deemed to have acquired temporary status automatically. The Railway

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Board have issued instructions in 1987 directing all the Railways/ DRM to re-engage the services of the Casual Labourers whose services were terminated after 1981 and place their names on the Live Casual Labour Register. The applicant has stated that in spite of these instructions, his services were terminated on 14.02.1983 even though persons junior to him have been retained in service. He has been representing to the authorities from 1983 onwards repeatedly without success.

3. The respondents have contended that the instructions of the Railway Board relied upon by the applicant are not applicable to him. Also, the Certificate of Employment produced by him is yet to be verified by them. According to them, he has served only for 153 days between 1982-83. He did not submit any representation to show that he was interested in employment under the respondents. Instructions issued by the Railway Board during 1987-89 are not applicable retrospectively.

4. We have gone through the records of the case and heard the learned counsel for both parties. In order to ensure that all those Casual Labourers who had worked earlier may be given a chance to be re-engaged whenever there are vacancies, the Railway Board have issued instructions that Live Casual Labour Registers **should** be maintained where particular of the retrenched Casual Labourers should be entered as per the seniority.

They have also reiterated in 1987 that any casual labourer who was discharged at any time after 01.01.1981 on completion of project or want of further work, should continue to be borne on the Casual Labour Register. Hence it is incumbent on the respondents to place the name of the applicant on the Live Casual Labour Register and provide him work against future vacancies, depending on his seniority.

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5. The respondents have admitted that the applicant has served for more than 120 days. He had thus acquired the temporary status. The services of such an employee cannot be terminated without giving Show Cause Notice and holding an enquiry in accordance with the provisions of the Railway Servants (Discipline and Appeal) Rules, 1968.

6. In the light of the facts and circumstances of the case, we allow the application and direct the respondents to place the applicant's name in the Live Casual Labour Register in accordance with the instructions issued by them from time to time and continue engaging him as a Casual Labourer in accordance with his seniority in future vacancies.

7. The application is disposed of accordingly. The parties will bear their own cost.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 17/9/73
MEMBER(A)

P.K. Kartha
17/9/73
(P.K. KARTHA)
VICE CHAIRMAN(J)