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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A. NO. 2177/90

New Delhi this the 2nd day of February, 1995

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN
HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER (A)

Naval Kishore S/O GyaSilaL,
worked as Monthly Rated Casual
Labour as S & T Khallasi under
Chief Signal Inspector (C),
Central Railway, Jhansi.
R/O 20, Madaarganj, Moth,
Distt. Jhansi (U.P.).

... Applicant

(By Advocate Shri H. P. Chakravorty)

Versus

1. Union of India through
Secretary, Ministry of
Railways, Rail Bhawan,
New Delhi.
2. The Deputy Chief Signal &
Telecom Engineer,
Central Railway,
DRM's Office, Jhansi.
3. The Divisional Railway Manager,
Central Railway,
Jhansi.

... Respondents

(By Advocate Shri P. S. Mahendru)

ORDER (ORAL)

Shri Justice S. C. Mathur —

The applicant who was serving as casual labour
in the Railway establishment has through the instant
application sought his reinstatement.

2. Undisputedly, the applicant had been engaged
by the Railway administration as a casual labour and
he was discharged from service on 5.9.1982 as he was
alleged to be involved in a case of theft of Railway
property and was acquitted by judgment and order

dated 29.5.1989. After acquittal, the applicant made representation to the Railway administration on 2.6.1989 for his reinstatement in service. He did not receive any order of reinstatement and accordingly filed the present original application on 3.9.1990.

3. In the reply filed on behalf of the Railway administration, the right of the applicant to claim reinstatement has not been disputed. In paragraph 3 of the reply it has been stated that the applicant's representation dated 2.6.1989 had been referred to the headquarters for consideration and order for reinstatement will be issued. The learned counsel for the applicant has stated that order of reinstatement has been issued and the applicant has since joined service. In view of this position, the main relief claimed in the application has become infructuous.

4. The applicant has also claimed full backwages and seniority and promotional benefits. In our opinion, it will not be in the interest of justice to direct the respondents to pay backwages to the applicant for the period for which he has not discharged any duty. However, we feel that the applicant is justified in claiming the benefit of seniority etc. In a similar case (Sagir Ahmad vs. Union of India & Ors. : (1994) 27 ATC 78), their lordships of the Supreme Court upheld the applicant's claim of reinstatement but denied the claim of

backwages. Their lordships also observed that the period of absence from duty was to be counted for continuity of service as casual labour and other benefits.

5. In view of the above, the application is allowed and it is directed that the respondents shall count the period of absence from duty of the applicant towards the continuity of service as casual labour and for other benefits. There shall be no order as to costs.

P. T. L.

(P. T. Thiruvengadam)
Member (A)

S. C. Mathur
Chairman

/as/