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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI

O.A. No. 2272/90 .. Date of decision: 13.09.92.  
Sh. Raghuraj Singh .. Applicant  
Sh. V.P. Sharma .. Counsel for the applicant  
Versus  
Union of India & Ors. .. Respondents  
Sh. P.S. Mahendru .. Counsel for the respondents

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

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

1. Whether the Reporters of local papers may be allowed to see the judgement ? *Yes*
2. To be referred to the Reporters or not ? *Yes*

J U D G E M E N T

(Of the Bench delivered by Hon'ble Sh. B.N.  
Dhoundiyal, Member(A))

Shri Raghuraj Singh, who had worked as casual labour, Khalasi, in the office of I.O.W., Saharanpur, is aggrieved by the order dated 8.10.90, passed by the office of DRM, by which his services were terminated. The applicant was engaged as casual labour, Khalasi on 15.8.85 and had worked upto 10.1.86 for 149 days. Later, he was appointed as Substitute Khalasi in the office of C&W (Coaching), Northern Railway, New Delhi on

18.3.88. He worked upto 11.7.88 and was discharged from service vide order dated 6.7.88. The applicant filed an OA 1434/89 before this Tribunal which was decided on 24.4.90. The respondents were directed to reinstate the applicant in service. This was done on 25.6.90 and the applicant worked upto 8.10.90. He had been served with a Show Cause Notice on 27.7.90 stating that on verification of his Casual Labour Service Certificates, it was found to be false and bogus. The applicant gave his reply to the show cause notice on 14.9.90. The impugned order of dismissal was passed without following the procedure prescribed for temporary railway servants in the Railway Servants (D&A) Rules, 1966. He was not given any reasonable opportunity for defence and no charge sheet was served on him. Thus, the evidence against the applicant was collected behind his back and he was given no reasonable opportunity to rebut it by cross examining the witnesses. He has prayed that the impugned order of termination dated 8.10.90 be set aside and quashed and the respondents be directed to reinstate him in service.

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2. The respondents have stated that a bogus casual labour certificate showing that the applicant has worked from 15.8.85 to 10.1.86 was the basis of the offer of appointment made to him. When on verification, this fact came to light, he was discharged from service. A Show Cause Notice was duly given to him and his reply was duly considered. The applicant was not covered under the Railway Servant (Discipline and Appeal) Rules, 1968 and as such, no regular enquiry in the matter was required to be conducted. He had not completed 120 days of continuous service as casual labour. The act of the applicant in submitting a bogus casual labour card was not only misconduct but a criminal act of cheating and fraud and he is not entitled to any benefits.

3. We have gone through the records of the case and heard the learned counsel for both parties. Even if we do not take into account the disputed period of service between 15.8.85 and 10.1.86, the applicant has admittedly worked from 18.3.88 to 11.7.88 and 25.6.90 to 8.10.90.

4. In a similar case decided by this Bench on 8.11.91 in OA 2194/90, Shri Shailender Kumar Vs. Union of India, it was held that for counting 120 days of

Dr.

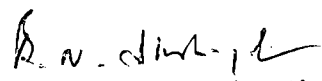
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service for acquiring temporary status, different spells can be taken into account and that the respondents cannot in such a case terminate the services of a substitute without following the procedure laid down in the Railway Servants (Discipline and Appeal) Rules, 1968.

5. In our opinion, the applicant is entitled to succeed. We, therefore, set aside and quash the impugned order of termination dated 5.10.90. The respondents are directed to reinstate the applicant as substitute Khalasi preferably within a period of 3 months from the date of communication of this order.

6. In the facts and circumstances of the case, we do not order payment of back wages to the applicant.

7. There will be no order as to costs.

  
( B.N. Dhoundiyal ) 19/5/92  
Member(A)

  
( P.K. Kartha )  
Vice Chairman (J)