

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 2422/90

Date of decision: 28.08.1992

Shri Surinder Kumar

...Applicant

Vs.

U.O.I. & Others

...Respondents

For the Applicants

...Shri V.P. Sharma,  
Counsel

For the Respondents

...Shri H.K.  
Gangwani, Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

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

JUDGMENT

(of the Bench delivered by Hon'ble Shri P.K. Kartha, Vice Chairman(J))

The applicant who has worked as a Casual Labourer in the office of the respondents is aggrieved by his disengagement. We have gone through the records of the case and have heard the learned counsel of both parties. The respondents have stated in their counter-affidavit that the applicant has worked as Casual Labourer from 6.8.1981 to 1.10.1983 in different periods totalling 327 days. However, his services were disengaged thereafter on the ground that the casual labourer card produced by him was found to be forged and bogus as per the enquiries made by the respondents.

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2. The respondents have raised a preliminary objection in their counter-affidavit that the application is barred by limitation as the applicant's services were disengaged in October, 1983. As against this, the learned counsel for the applicant's argued that the respondents should have given a show cause notice to him before disengaging his services as he had already acquired temporary status. As regards the plea of limitation, the learned counsel for the applicant has relied upon the judgment of the Supreme Court in Inder Pal Yadav Vs. U.O.I. & Others, 1988 SCC(L&S) 526 in which the Supreme Court has observed that casual labourers came from the lowest grade of Railway service and they can ill afford to rush to the court. The applicant has also relied upon the instructions contained in the Railway Boards' Circulars dated 9.6.1981 and 11.9.1986, according to which, the applicant should be considered for regularisation in accordance with the length of service put in by him.

3. In our opinion, the plea of limitation raised by the respondents is not tenable. In Basant Lal Vs. Union of India, 1990 (3) SLJ CAT 1, the Tribunal had held that the plea of limitation cannot be raised in cases

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where the engagement of casual labourers arises for consideration. The SLP filed by the Union of India against the judgment of the Tribunal was dismissed by the Supreme Court in Union of India Vs. Basant Lal, 1992(1) SCALE 413.

4. In the instant case, the verification of the casual labour card of the applicant was made by the respondents behind the back of the applicant. No show cause notice was issued to him before his services were disengaged. No enquiry was also held against him in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968. This is <sup>not a</sup> legally tenable.

5. In the light of the foregoing, we set aside and quash the impugned order of disengagement of the services of the applicant. We direct that the applicant shall be reinstated as casual labourer wherever vacancy exists and in accordance with the length of service put in by him. In the facts and circumstances, we do not direct payment of back wages to him. After reinstatement, the respondents will be at liberty to take appropriate action against the applicant for any misconduct in accordance with law, if so advised. The respondents shall

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comply with the above directions as expeditiously as possible and preferably within a period of three months from the date of receipt of this order.

There will be no order as to costs.

*B.N. Dhouliyal*  
(B.N. DHOULIYAL) 28/8/92  
MEMBER (A)  
28.08.1992

*P.K. Kartha*  
(P.K. KARTHA)  
VICE CHAIRMAN(J)  
28.08.1992

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