

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

O.A.No.2434/90

Date of Decision: 4-3-1992

Mohinder Singh

Applicant

Shri G.D. Bhandari

Counsel for the Applicant

Vs.

Union of India through
General Manager, Northern
Railway and Another

Respondents

Shri N.K. Aggarwal

Counsel for the respondents.

CORAM:

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

The Hon'ble Shri 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 Vice Chairman Shri P.K.Kartha)

The applicant who has worked as a Khalasi Casual Labourer in the office of the respondents is aggrieved by the impugned order of termination of his service dated 12.03.1990. He has prayed for quashing the same and for reinstatement with back wages.

2. The case of the applicant in brief is that he has worked in the office of the respondents in two spells-

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from 21.4.81 to 21.9.81 for a total period of 155 days and from 12.6.69 to 12.3.90 for a total period of 262 days. He has contended that he has acquired the status of a temporary employee on both occasions. No Show Cause notice was given to him or any enquiry held against him, in accordance with the provisions of the Railway service (Discipline and Appeal) Rules, before terminating his services. The stand of the respondents is that his appointment was provisional and subject to verification of his casual labour card, date of birth certificate, educational qualification certificate and verification of character and antecedents. He was discharged on the ground that he had produced School Leaving Certificate dated 10.7.85 from the Principal Rajkia Secondary School, Harsauli, Alwar in support of his claim of having passed VIIIth class. On verification it came to light, that the certificate produced by him was a fake one.

3. We have gone through the records of the case and have considered the rival contentions. The respondents have not denied the averments made by the applicant that he had acquired temporary status in accordance with the provisions of the Indian Railway Establishment Manual. A Railway employee who has acquired temporary status could not be removed from service without giving him a Show Cause notice or without holding an enquiry against him in accordance with the provisions of the Railway Service (Discipline and Appeal) Rules, 1968. In the instant case, no Show Cause notice was given or enquiry held against the applicant before his services were terminated.

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4. In the light of the above, we are of the opinion that the impugned order of termination is not legally sustainable. We, therefore, set aside and quash the same with the direction to the respondents to reinstate the applicant as Khalasi Casual Labourer within a period of three months from the date of communication of this order.

5. In the facts and circumstances of the case, we do not direct payment of back wages to him. After reinstating him, the respondents will be at liberty to take any action against him for any misconduct on his part in accordance with Law, if so advised.

6. There will be no order as to costs.

B. N. Dhoundiyal
(B.N. DHOUNDIYAL)
MEMBER(A)

P.K. Kartha
4/3/92
(P.K. KARTHA)
VICE CHAIRMAN(J)

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