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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.CA 2611/90

Date of decision: 19.2.92

Shri Muni Shanker Sharma

...Applicant

Vs.

Union of India & Others

...Respondents

For the Applicant

...Shri Malik B.D. Thareja,
Counsel

For the Respondents

...Shri Romesh Gautam,
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 short point for consideration is whether the termination of the services of the applicant as a Khallasi on the ground that he had abandoned service is legally tenable.

2. The applicant was appointed as casual labourer volve man-cum-khallasi under Inspector of Works, Hapur in Moradabad Division of the Northern Railway with effect from 10.5.1976. He worked upto 20.2.1979 for a total period of 907 days. The applicant claims that he has attained temporary

status having worked continuously from 8.1.1977 to 21.6.1977, after having worked for 120 days continuously. Without giving any show cause notice or holding any enquiry, his services were terminated by oral order with effect from 21.2.1979. The applicant has prayed for a direction to the respondents to reinstate him in service, to regularise him with his due seniority and to pay him back wages.

3. The respondents have stated in their counter-affidavit that the application is barred by limitation. On the merits, they have stated that the applicant worked upto 20.2.1979 and thereafter he was called upon to work several times but he never turned up. According to them, they have not terminated his services but he left the services on his own.

4. We have gone through the records of the case carefully and have considered the rival contentions. Admittedly, the applicant has worked for more than 120 days and had acquired temporary status in accordance with the provisions of the Indian Railway Establishment Manual. No show cause notice was served on him before terminating his services. No enquiry was held against him in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968. The plea that the applicant abandoned from duty is not very convincing as in that event, the respondents

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were bound to give notice to him calling upon him to resume his duty. In case they intended to terminate his services, on the ground of abandonment of service, they should have held an inquiry before doing so. In a case of this kind, the plea of limitation is not tenable.

5. In the light of the above, we are of the opinion that the termination of the services of the applicant is not legally sustainable. Accordingly, we direct that the applicant shall be reinstated in service. In the facts and circumstances of the case, we do not direct payment of backwages to him. After reinstatement, the respondents will be ^{at} liberty to take appropriate action against the applicant in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968 for any alleged misconduct on his part, if so advised. The respondents shall comply with the above directions within a period of 3 months from the date of communication of this order.

The parties will bear their respective costs.

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

P. K. Kartha
19/2/92
(P.K. KARTHA)
VICE CHAIRMAN (J)