

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

(6)

O.A. No. 628/90
T.A. No.

199

DATE OF DECISION 1.2.1991.

Shri M.P. Singh

xPetitioner Applicant

Shri B.S. Maines

Advocate for the Petitioner(s)

Versus

Union of India through

G.M., Northern Rly. & Anr.

Respondent

Shri Inderjit Sharma

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

T. Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *yes*
2. To be referred to the Reporter or not? *yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *1/ No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *1/ No*

(Judgement of the Bench delivered by Hon'ble
 Mr. D.K. Chakravorty, Administrative Member)

The applicant, who has worked as Casual Labourer in the office of the respondents, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the respondents be directed to register his name in the Live Casual Labour Register and re-engage his services against future vacancies.

2. The facts of the case in brief are as follows. The applicant was appointed as Casual Labourer under PWI, Mathura Cantonment on 16.1.1984 and he worked for different periods

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from 16.1.1984 to 16.9.1985. He was sent for medical examination to the Railway Medical Officer and was declared fit in A-3 category vide Medical Certificate issued on 9.5.1985. He last worked on 16.9.1985 and thereafter, he has not been given any work. He has relied upon the circulars and instructions issued by the Railway Board on 20.3.1987, 4.9.1980, 22.10.1980, 12.6.1987, and 20.3.1987 on the subject of engagement of Casual Labourers whose names are borne on the Live Casual Labour Register.

3. The respondents have contended in their counter-affidavit that the instructions of the Railway Board relied upon by the applicant are not applicable to him as he obtained appointment by fraud and misrepresentation of facts. They have also contended that the applicant worked till 15.10.1985 and thereafter did not turn up for duty.

4. We have gone through the records of the case carefully and have considered the rival contentions. Admittedly, the applicant had attained temporary status. The plea of the respondents that the applicant absconded, is not very convincing. In the case of abandonment of service, the respondents are under a duty to give a

show-cause notice to him before disengaging his services. In G. Krishnamurthy Vs. Union of India & Others, 1989 (9) A.T.C. 158, the Madras Bench of this Tribunal observed that in the case of abandonment of service, the employer is bound to give notice to the employee calling upon him to resume his duty and also to hold an inquiry before terminating his services.

5. In our view, if an employee has worked continuously for 120 days in a year, even though the respondents alleged that his initial engagement was by fraud or misrepresentation, his services cannot be terminated without following the procedure prescribed under the Railway Servants (Discipline & Appeal) Rules, 1968. We have come to a similar conclusion in a batch of applications disposed of by judgement dated 6.4.1990 (0A-305/89) and connected matters - Rati Ram & Others Vs. Union of India & Others through General Manager, Northern Railway.

6. In the light of the above, we allow the application and direct that the respondents shall consider the suitability of the applicant's name being included in the Live Casual Labour Register in accordance with circulars and instructions issued by them from time to

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time. The application is disposed of accordingly.
at the admission stage itself.

The parties will bear their own costs.

Dulhara 1/2/89

(D.K. Chakravorty)
Administrative Member

Arrived 1/2/89

(P.K. Kartha)
Vice-Chairman(Judl.)