

In the Central Administrative Tribunal
Principal Bench, New Delhi

(5)

Nos.:

Date: 2.8.1991

- ✓ 1. OA-818/90
2. OA-822/90
3. OA-1402/90

1. Shri Dharamvir Singh }
2. Shri Chander Pal Singh } Applicants
3. Shri Jai Pal Singh }

Versus

Union of India through General .. Respondents
Manager, Northern Railway.

For the Applicants Shri D.P. Gupta, Counsel
For the Respondents in item 1 Miss Shashi Kiran, Counsel
For the respondents in item 2 Shri B.K. Aggarwal, Counsel
For the respondents in item 3 Shri B.M. Mani, Counsel

CORAM: Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)
Hon'ble Mr. B.N. Dhoundiyal, 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? *No*

(Judgement of the Bench delivered by Hon'ble Mr. P.K. Kartha, Vice-Chairman)

The applicants in these applications have worked as Casual Labourers in the Office of the respondents. As the issues raised in these applications are common, it is proposed to deal with them in a common judgement.

2. The applicant in OA-818/90 has worked as Khalasi from 18.4.1988 to 8.6.1988. The applicant in OA-822/90 has worked as Loco Cleaner from 23.4.1988 to 8.6.1988. The

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applicant in OA-1402/90 has worked as Khalesi from

23.5.1988 to 17.7.1988. They have challenged the termi-

nation of their services by oral order without giving them

any notice and without holding an inquiry in accordance with

the provisions of the Railway Servants (Discipline & Appeal)

Rules, 1968.

3. The applicants have contended that they have acquired

a prescriptive right for continuing to hold the posts and

that their termination is not legally sustainable.

4. The stand of the respondents is that the applicants

have not acquired the temporary status in accordance with

the provisions of the Railway Servants Establishment Manual

and, therefore, no notice is required to be given to them,

or no inquiry is required to be held against them in

accordance with the provisions of the Railway Servants

(Discipline & Appeal) Rules, 1968. According to them, the

services of the applicants have been terminated as the

Casual Labour Cards indicating the casual labour service

rendered by them were found to be bogus and false.

5. We have carefully gone through the records of the

case and have considered the rival contentions. It appears

from the records that the applicants have not worked as

Casual Labourers for 120 days continuously so as to entitle

them to acquire temporary status in accordance with the

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provisions of the Indian Railway Establishment Manual.

In view of this, the respondents were not under ^{an} obligation

to hold an inquiry against the applicants in accordance

with the provisions of the Railway Servants (Discipline

& Appeal) Rules, 1968 before dispensing with their services.

6. There is, however, another aspect of the matter. The

termination of the services of the applicants had been

effected on the ground that their initial entry into service

as Casual Labourers is tainted with fraud. The respondents

have only conducted verification and inquiry in this regard

behind the back of the applicants. In our view, this is

clearly impermissible in law. The principles of natural

justice would apply to cases of this kind which postulate

that the person concerned should have been given a notice

to show-cause against the action proposed against them and

that they should be given a reasonable opportunity to

defend themselves. This is the minimum required to be

complied with before terminating their services. The

respondents did not do so in these cases.

6. In the light of the above, we set aside and quash

the impugned orders of termination and direct that the

respondents shall reinstate the applicants as Casual

Labourers at the places where they had earlier been engaged.

If there is no vacancy to accommodate them there, they should

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be considered for engagement at other places wherever the vacancies exist. In the facts and circumstances of the case, we do not direct payment of back wages to the applicants.

8. We make it clear that the respondents will be at liberty to give a show-cause notice to the applicants in regard to the alleged misconduct on their part, give them sufficient time to give a reply to the said notice and give personal hearing to them if they ask for the same. Thereafter, the respondents may issue appropriate orders. There will be no order as to costs.

9. Let a copy of this order be placed in all the three case files (OA-818/90, OA-822/90 and OA-1402/90).

(B.M. Dhoundiyal) 2/8/91
Administrative Member

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