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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-1615/91

Date of decision: 20.8.92

Shri Tulsi Ram & Ors.

.... Applicants

Versus

Union of India through
Secretary, Ministry of
Railways & Others

.... Respondents

For the Applicants

.... Shri Anis Suhrawardy, Counsel

For the Respondents

.... Shri Ramesh Gautam, Advocate

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 nine applicants before us had filed writ petition No.74/91 in the Supreme Court which was dismissed by order dated 6.5.1991 with the observation that the petitioners should pursue their remedy before this Tribunal.

2. We have gone through the records of the case and have heard the learned counsel for both the parties. The applicants have worked as casual labourers in the Railways
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for various periods from 1978 to 1984. The period of service rendered by them has been given at page 54 of the paperbook. The first applicant has worked in 1984 for 68 days; the second applicant in 1984 for 115 days; the third applicant in 1983-84 for 174 days, applicant No.4 in 1984 and 1988 for 114 days; applicant No.5 from 1984 to 1986 for 190 days, applicant No.6 from 1983 to 1988 for 106 days; applicant No.7 in 1984-85 for 87 days; applicant No.8 in 1978 for 21 days; and applicant No.9 from 1984 to 1986 for 213 days. The period of service rendered by them is not continuous but with breaks in-between. They are relying upon the judgement of the Supreme Court in Shri Inder Pal Yadav Vs. Union of India & Others, 1985 SCC (L&S) 526 in which the Supreme Court has disposed of a batch of writ petitions and SLPs after approving the scheme prepared by the respondents for regularisation of casual labourers, as modified by the judgement. The respondents had prepared the scheme so as to cover the cases of casual labourers who had been engaged on projects as on 1.1.1984. The Supreme Court modified the scheme to the extent that casual labourers who were in service on projects as on 1.1.1981, should be considered for regularisation.

3. Shri Inder Pal Yadav's case dealt with the casual labourers on projects. The applicants before us have

worked as casual labourers in the open line of the Railways. They are seeking the benefit of the judgement of the Supreme Court in Inder Pal Yadav's case and the subsequent judgements of the Supreme Court in a batch of writ petitions filed by Sham Lal & Others Vs. Union of India & Others which was disposed of by order dated 24.3.1987 and a writ petition filed by Jai Pal & Others which was disposed of by order dated 17.10.1989.

4. In Sham Lal's case, the learned counsel for the Railways informed the Supreme Court that there was no prospect of retrenchment in the immediate future and that notices of retrenchment already issued would be withdrawn. In view of this, the Supreme Court observed that no orders are necessary in the writ petitions before it. The Supreme Court did not, therefore, consider the merits of the case of the petitioners to be regularised.

5. In Jai Pal's case, the Supreme Court directed the respondents to appoint the petitioners in the existing vacancies and if there are no vacancies available, then they may be appointed in the vacancies which may arise in future. The petitioners would, however, be absorbed before appointing any other persons.

6. The respondents have contended in their counter-affidavit that the applicants have not worked for 120 days continuously in the open line so as to claim temporary

status, and that they were not retrenched, but left service of their own accord without giving any prior intimation to the respondents. They have further stated that their names have been included in the live Casual Labour Register, and that they would be considered for engagement as and when vacancies arise.

7. After considering the rival contentions, we are of the opinion that the contention of the respondents that the applicants have abandoned the service, is not convincing. In the case of abandonment of service, the respondents should have given a notice to the applicants calling upon them to report for duty and in the event of their failure to do so, they could have disengaged them from service. That was not done. We, therefore, direct that the applicants would be entitled to the relief to the extent that they should be considered for engagement as casual labourers wherever vacancies exist and in accordance with the respective length of service put in by them. The names of the applicants should be continued to be borne on the live Casual Labour Register. Such of the applicants who have completed 120 days of continuous service, should also be given temporary status in accordance with the Indian Railway Establishment Manual and they should be given the same benefits. The application is disposed of on the above lines; There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 20/8/92
Administrative Member

P.K. Kartha
20/8/92
(P.K. Kartha)
Vice-Chairman (Judl.)