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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

Regn.No.2614/91

Date of decision: 16-07-1993

Sh.Moti Ram & anr. ... Petitioners  
vs.

Union of India  
through General Manager.  
Northern Railway.  
New Delhi & ors. ... Respondents

For the Petitioners ... Sh.B.S.Mainee, Counsel.

For the Respondents .. Sh.Romesh Gautam.  
Counsel.

CORAM:

THE HON'BLE MR. JUSTICE S.K. DHAON, VICE CHAIRMAN  
THE HON'BLE MR. B.N. DHOUNDIYAL, MEMBER (A)

JUDGEMENT(ORAL)

( By Hon'ble Mr. Justice S.K.  
Dhaon, Vice Chairman)

The material averments in this OA are these.  
The petitioners were engaged as Casual Labourer under the Permanent Way Inspector, Northern Railway, Allahabad. They have worked for 120 days continuously in that capacity. They, therefore, acquired temporary status. Their services were terminated in violation of law.

2. The prayers in main are these:-

- (i) the order terminating the services of the petitioners may be quashed.
- (ii) respondents may be directed to reengage the petitioners and place them on the Live Casual Labour Register.
- (iii) this Tribunal may grant any relief which is considered just and proper.

3. A conter affidavit has been filed on behalf of the respondents. In it, the material

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averments are these. Petitioner No.1 Shri Moti Ram has worked continuously for 177 days and Petitioner No.2 Shri Chander Pal for 148 days. As per the extant Railway Board's orders, minimum 188 days of continuous working is required for granting temporary status." This is applicable to the casual labour in the Project Work."

4. It is not the case of the respondents that casual labours are not entitled to be given temporary status after they have worked for 120 days continuously. It is also not the specific or implied case of the respondents that the petitioners were employed on some project work. On the contrary, the case set up in para 4.2 of the counter-affidavit is that the minimum period of 188 days of continuous working is required by a casual labour working in the project for acquiring a temporary status.

5. In para 4.2 of the OA, the petitioners came out with the specific case that they ~~have~~ having worked for 120 days continuously were entitled to be given a temporary status. At the Bar, the contention of the respondents is that the petitioners were not employed in the open line but were actually employed in the project work and, therefore, their working for 120 days continuously did not entitle them to acquire a temporary status. We have already indicated that no such defence has been taken in the counter-affidavit filed. Respondents were aware that the petitioners ~~had~~ set up a <sup>definite</sup> ~~different~~ case that they were entitled to be given temporary status as they ~~had~~ worked for 120 days continuously. Under the circumstances,

we ~~we~~ have to proceed on the assumption that the petitioners were entitled to be given a temporary status after they ~~had~~ worked for 120 days continuously. It follows that we have to assume for the purpose of the instant case that the petitioners were not employed in a particular project but in an open line. We also record a finding that the petitioners have succeeded in establishing that they have worked for 120 days continuously.

6. Since the petitioners acquired a temporary status, their services could not be done away *with* without following the necessary procedure. The bald plea of the respondents that the ~~petitioners had~~ petitioners abandoned their jobs cannot be accepted. No averment is made in the counter affidavit that the petitioners were given notice <sup>they</sup> to resume their duty and /failed to do so in spite of the said notice. There is also no averment that any proceedings were initiated for terminating the services of the petitioners and they failed to participate. It, therefore, cannot be said that the petitioners have abandoned their jobs.

7. This, in our opinion, is not a fit case where we should direct reinstatement of the petitioners with back-wages. The interests of justice will be met if we direct the respondents to give fresh employment to the ~~petitioners~~ petitioners as casual labour~~s~~. We direct accordingly. The respondents shall offer fresh ~~employment~~ employment to the petitioners as casual labour~~s~~ within the Division in which they were working as casual labours. They shall do so as

expeditiously as possible but not beyond a period of three weeks from the date of presentation of a certified copy of this order by any of the petitioners.

8. The learned counsel for the respondents also urged that this OA is barred by limitation. We have already held that the petitioners acquired temporary status before their services were terminated. In that situation, the order of termination without following the necessary procedure is void. The bar of limitation, therefore, will not operate in this case.

9. The view taken by us on merits as well as on the question of limitation accords with the view taken by a Division Bench of this Tribunal in a case reported in ATJ 1990(1) 576(BEER SINGH VS.U.O.I & ORS.).

10. This OA is allowed in terms of the directions aforementioned. There will be no order as to costs.

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

*S.K. Dhaon*  
(S.K.DHAON)  
VICE CHAIRMAN(J)

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