

3
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA No. 2691/91 .. Date of decision: 28-8-92

Sh. Bani Singh & Another .. Applicants

Sh. B.S. Mainee .. Counsel for the applicants

Versus

U.O.I. & Ors. .. Respondents

Sh. H.K. Gangwani .. Counsel for the respondents

CORAM

HON'BLE SH. P.K. KARTHA, VICE CHAIRMAN (J)

HON'BLE SH. B.N. DHOUNDIYAL, MEMBER (A)

1. Whether Reporters of local papers may be allowed to see the Judgement ? *Yes*
2. To be referred to the Reporters or not ? *No*

JUDGEMENT

(Of the Bench delivered by Hon'ble Sh.B.N.Dhoundiyal,
Member (A))

Two Casual Labourers, S/Shri Bani Singh and Pappu are aggrieved by the action of the respondents in the Northern Railway in not engaging their services after their transfer from Aligarh to Tundla.

2. The contention of the applicants is that they were appointed as casual labourers under Permanent Way Inspector (PQRS) Allahabad at Aligarh on 14.10.84 and had continuously worked upto 14.8.85 for 274 days. On that day, they were directed to proceed to Tundla but they were not given any work by the Assistant Engineer, Tundla.

The Assistant Engineer, Aligarh also refused to engage them when they returned to Aligarh. Their representations to the Divisional Engineer, Allahabad and others did not elicit any response. Having worked for more than 120 days, they claim to have acquired temporary status and their services could not be terminated without notice and without complying with the provisions of Section 25(F) of the
PN

Industrial Disputes Act. They have prayed that respondents be directed to place their names on the Live Casual Labour Register and they be reinstated with full benefit of past service as has been held in OA No. 732/88 decided on 30.3.90 in case of their similarly placed colleagues (Shri Kaptan Singh & Others Vs. Union of India.)

3. The respondents have admitted that applicants 1 and 2 have worked for 294 days and 270 days respectively. However, they were not given temporary status by the P.W.I. Aligarh as they had been transferred to Tundla. They never turned up to report for duty at Tundla.

4. We have gone through the records of the case and heard the learned counsel for both parties. Another Bench of this Tribunal of which, one of us (Shri P.K. Kartha) was a member, has held in OA 732/88 decided on 30.3.90 that the applicants having worked for more than 120 days had acquired temporary status in accordance with the provisions of the Indian Railway Establishment Manual and that removal of their names from the Live Casual Labour Register without notice to them was not legally sustainable. No notice of termination of services was issued to them nor any retrenchment compensation paid to them. Their rights as employees with temporary status cannot be denied to them just because they were transferred to another division.

5. The respondents have complied with the directions issued by this Tribunal in case of 17 applicants who filed the above mentioned application. The respondents were directed to reengage the applicants as casual labourers. They should have extended the benefits of that judgement to the applicants in the present OA and other similarly situated persons (Vide Amrit Lal Berry Vs. Commissioner, Excise, SLR 1975 (2) Page 157).

On

6. In the facts and circumstances of the case, the application is allowed and the respondents are directed to reengage the applicants as casual labourers in the zone in which they were working, failing which in any other zone where there may be vacancies. The period of service put in by them will also count for seniority. Their names shall be included in the Casual Labour Register maintained by them. In the facts and circumstances of the case, we do not direct payment of backwages to them. The respondents shall comply with the above directions expeditiously and preferably within a period of three months from the date of receipt of this order.

No orders as to costs.

B.N. Dhundiyal (B.N. Dhundiyal) 28/8/72
Member (A)

28/8/72
(P.K. Kartha)
Vice Chairman (J)