

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

O.A.No.3055/91

DATE OF DECISION:18.09.1992

Shri Ashok Kumar & Ors.

Applicants

Shri H.P. Chakravorty

Counsel for the applicants

Vs.

Union of India & Ors.

Respondents

Shri M.L. Verma

Counsel for the respondents

CORAM:

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

THE HON'BLE MR. 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? *Yes*

J U D G E M E N T

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAL)

This OA has been filed under Section 19 of the Central Administrative Tribunal Act, 1985 by S/Shri Ashok Kumar and Hari Ram, Casual Labourers, who had worked under the Chief Telecom Inspector (Micro Wave), Central Railway, Jhansi, against the decision of the respondents not to take them back on duty, after they had been discharged in a criminal case.

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2. The applicants were engaged as Casual Labourers on 21.9.83. A FIR was lodged in August-September, 1985 and Criminal case No. 533/86, State Vs. Jagdish Prasad etc. was registered against them under Section 420 and 468 I.P.C. at Jhansi. On account of pendency of the above criminal case, the applicants were not taken on duty w.e.f. 11.9.85 and they were told by the depot incharge, that this would be done only after their acquittal by the Court. When no charge-sheet was submitted by the prosecution till July 1990, the Court passed order of discharge. Thereafter, they submitted representations to the respondents on 7.7.90 and 8.1.91, along with a certificate granted by the Court. The applicants claim that they had rendered two years of service and were entitled to the protection guaranteed under Chapters XXIII and XXV of the Indian Railway Establishment Manual, read with Rule 301-R-1, of Indian Railway Establishment Code Vol.1, including Railway Servants (Disciplinary and Appeal) Rules, 1968. They claim that they are entitled to be reinstated with
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full back wages in view of the directions issued by the Railway Board on 29.4.85. They have prayed that directions to this effect be issued to the respondents.

3. The respondents have contended that the application is time barred, as relief is being asked w.e.f. September 1983. Though the applicants were engaged as Casual Labourers on 21.9.83, they stopped attending duties from 3.9.85, and as such, they were disengaged.

4. We have heard the arguments addressed at the Bar and had perused the pleadings put forth by the counsel for both parties and the documents placed on record. The applicants have clearly mentioned in the OA that their services were disengaged after filing of the criminal case against them and they were told that they would be reengaged, if they were acquitted by the Court. They approached the respondents for reengagement only after the Court had discharged them on 9.7.90. This has not been controverted by the respondents. Hence, the preliminary objection
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relating to limitation is overruled. It is admitted that both the applicants had served for more than 120 days and had acquired temporary status, which means, that the Railway Servants (Disciplinary and Appeal) Rules, 1968 were applicable to them.

5. It follows that even after the applicants had stopped reporting for duty, their services could not be terminated without issuing Show Cause Notice, and without giving them an opportunity to defend themselves. Another Bench of this Tribunal, of which, one of us (Shri P.K. Kartha) was a party in TA.571/86, decided on 30.4.90 (Shri Sham Lal Vs. Union of India), has held that "the mere fact that the plaintiff is involved in the criminal case and that he had been arrested and kept in Police custody for more than 48 hours, does not justify the termination of his services."

6. We reiterate the same view.

7. In the facts and circumstances of the case, we direct the respondents to reengage the applicants

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in service as Casual Labourers, within a period of three months, from the date of receipt of this order.

2. In the circumstances, we do not order payment of back wages, but the services rendered by the applicants, will count for the purpose of seniority.
3. The parties will bear their own costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 19/5/52
MEMBER(A)

P.K. Kartha
18/5/52
(P.K. KARTHA)
VICE CHAIRMAN(J)

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