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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA 295/1991

Date of decision: 27.05.92.

Shri Abdul Khan

...Applicant

Vs.

Union of India & Others

...Respondents

For the Applicant

...Shri Sant Singh,
Counsel

For the Respondents

...Shri N.K.
Aggarwal, Counsel

CORAM:

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. I.K. BASGOTRA, 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 (ORAL)

(of the Bench delivered by Hon'ble Shri P.K. Kartha,
Vice Chairman(J))

We have heard the learned counsel of both parties.

The grievance of the applicant is that the respondents have passed the impugned order of termination of his services on 08.01.1991 after giving him a show cause notice dated 3.9.1990 but without following the directions contained in para 7 of the judgment of the Tribunal in OA 1719/89 dated 20.04.1990.

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2. The applicant had filed OA 1719/89 wherein he had challenged the impugned order dated 27.07.1988. By judgment dated 20.04.1990, the application was allowed and the impugned order of termination dated 27.07.1988 was set aside and quashed. The respondents were directed to reinstate the applicant in service as casual labourer. The respondents were also given liberty to take appropriate action against him for any act of misconduct after giving him a show cause notice and keeping in view the observations contained in the judgment dated 20.04.1990 which are as under:-

"In case he had not acquired temporary status, termination of his services could be effected by affording him an opportunity to explain his conduct and hearing him on the point. If the respondents have formed an opinion on the basis of some documents, the employees should be afforded an opportunity to submit his explanation. He would also be entitled to know the evidence by which it is proposed to prove the allegation of misconduct against him, to inspect the documents sought to be relied upon for the purpose of being used against him, and to produce his own evidence in his defence. In case, he asks for a personal hearing, that also should be afforded to him".

3. The learned counsel for the respondents submitted that on 05.06.1991 another Bench of this Tribunal has disposed of a similar application (OA 2119/90 - Daryao Singh Vs. Union of India) in which the Tribunal^{has} upheld the order of termination of the services of the applicant in that case after giving him a show cause notice and receiving his reply to the said notice. The learned counsel argued that Daryao Singh's case being later in point of time, that decision would hold good in the instant case also.

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4. We have carefully considered the rival contentions. At the time of hearing of the case, the learned counsel for the applicant has filed a copy of letter No. 969E/R.P. Cell/G-88 dated 30.10.1990 concerning the verification of the working days of the applicant who had allegedly produced casual labour Card No. 75318. It has been stated in the said letter that it is evident from the letter of PW1/Spl./Kanpur that casual labour Card No. 75318 was available in the year of January, 1985.


5. The learned counsel for the respondents submitted that the said card is not traceable after January, 1985.

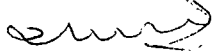
6. In the reply to the show cause notice given by the applicant, he had requested that the alleged Card No. 75318 be called for and produced to him for his ^{scrutiny &} ~~screening~~ and verifications. He had also raised other points and contentions in his reply to the show cause notice. The impugned order dated 8.1.1991 has been passed not in compliance with the directions contained in the earlier judgment dated 20.04.1990 in OA 1719/89 filed by the applicant. The observations which were to be taken into account by the respondents have already been extracted above.

7. In the light of the foregoing, we are of the view that the impugned order of termination of services of the applicant by letter dated 8.1.1991 is not legally sustainable. We,

therefore, set aside and quash the same. The respondents are directed to reinstate the applicant as casual labourer preferably within a period of 3 months from the date of receipt of this order. In the facts and circumstances of the case, we do not direct payment of back wages to him. After reinstating him, the respondents will be at liberty to take appropriate action against him for any alleged misconduct in accordance with law and keeping in view the observations contained in this judgment.

8. There will be no order as to costs.


(I.K. RASGOTRA)
MEMBER (A)
27.05.1992


(P.K. KARTHA)
VICE CHAIRMAN (J)
27.05.1992

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