

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 91/91
T.A. No.

199

DATE OF DECISION 19.2.1992

Shri Harkesh Singh Petitioner

Shri Malik B.D. Thareja Advocate for the Petitioner(s)

Versus

U.O.I through the General Manager, Respondent
Northern Railway & Others

Shri Romesh Gautam Advocate for the Respondent(s)

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 Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal?

JUDGMENT

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

The point for consideration is whether the termination of the services of the applicant who has worked as a casual labourer khallasi in the office of the respondents is legally tenable.

2. The applicant was appointed as casual labourer khalasi under Inspector of Works, Hapur in Moradabad Division of the Northern Railway with effect from 17.10.1977. According to him, he has worked for 990 days between 17.10.1977 to 14.12.1980. He claims that he has acquired temporary status in accordance with the provisions of the Indian Railway Establishment Manual.

This has been denied by the respondents in their counter-affidavit.

3. The applicant has stated that on 15.12.1980, he was orally told that there was no work at the relevant time and that he could be given work when ^{the} next sanction was received. Thereafter, the applicant has not been taken on duty. He has prayed that the respondents be directed to reinstate him as casual labourer khalasi and to absorb him in accordance with his seniority.

4. The respondents have stated in their counter-affidavit that the applicant worked upto 14.12.1980 and thereafter he was called to appear on 20.10.1989 but he did not turned up. In other words, their contention is that he abandoned the service. They have also raised the plea of ^{limitation.} limitation.

5. We have carefully gone through the records of the case and have considered the rival contentions. The plea raised by the respondents that the applicant has not acquired temporary status is disproved by the photocopy of the casual labour card produced by him ~~applicant~~, according to which, he has worked from 8.11.1977 to 14.12.1980. He has thus acquired temporary status in accordance with the Indian Railway Establishment Manual. No show cause notice was served on him before terminating his services. No enquiry was held against him in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968. The plea that the applicant abandoned from duty is not very

7

convincing as in that event, the respondents were bound to give notice to him calling upon him to resume his duty.

In case they intended to terminate his services on the ground of abandonment of service, they should have held an

inquiry before doing so. We are also of the view that in a case of this kind, the plea of limitation is not tenable.

6. In the light of the above, we are of the opinion that the termination of the services of the applicant is not legally sustainable. Accordingly, we direct that the applicant shall be reinstated in service. In the facts and circumstances of the case, we do not direct payment of back wages to him. After reinstatement, the respondents will be ^{at} liberty to take appropriate action against the applicant in accordance with the provisions of the Railway Servants (Discipline & Appeal) Rules, 1968 for any alleged misconduct on his part, if so advised. The respondents shall comply with the above directions within a period of 3 months from the date of communication of this order.

The parties will bear their respective costs.

B. N. Dhoondiyal
(B.N. DHOUNDIYAL)
MEMBER (A)

P. K. Kartha
19/12/82
(P.K. KARTHA)
VICE CHAIRMAN (J)