

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH: NEW DELHI

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DA No. 1696/92 .. Date of decision: 29.01.93  
Sh. Hukam Singh .. Applicant  
Versus  
Union of India .. Respondents

Sh. B.K. Batra .. Counsel for the applicant  
Sh. Romesh Gautam .. Counsel for the respondents

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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? *Yes*

J U D G E M E N T

(Of the Bench delivered by Hon`ble Sh.B.N.

Dhoundiyal, Member (A)

Sh. Hukam Singh is aggrieved that his services were terminated by Northern Railway, Hapur even though he had acquired temporary status as casual <sup>lab</sup>labour Khalasi/Gangman.

2. According to the applicant, he was appointed as a casual labour Khalasi under I.O.W. Hapur from 6.7.1977 to 14.8.1980 and under P.W.I. Hapur as casual labour Gangman from 1.1.1981 to 28.2.1981. He again worked as casual labour under Station Master Kankather in 1986. Thus, he had worked for a total of 950 days. However, he has not been assigned any *lv*

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duties after 18.11.86. As he had acquired temporary status, his services could not be terminated without holding disciplinary proceedings or without issuing one months notice alongwith retrenchment compensation. He has prayed that the respondents be directed to reinstate him as casual labour gangman/Khalasi and regularise his services under the extant orders.

3. On 24.8.92, this Tribunal passed an interim order directing the respondents to consider engaging him as casual labourer in any future vacancy in preference to persons with lesser length of service and outsiders.

4. The respondents have stated that he worked only upto 28.2.1981 under I.O.W. Hapur. The application filed after 11 years is clearly time barred. He left the job of his own accord and never turned up for work. According to their records, he has worked under I.O.W. Hapur for 598 days between 1977-1980, under I.O.W- Spl. GMS for 252 days during 1979-80 and under PWI Hapur for 59 days during 1981. He never worked continuously for 120 days in any spell and as such no temporary status could be granted to him. They have denied that the applicant has worked with them in 1986.

5. We have gone through the records of the case and heard the learned counsel for both parties. The learned counsel for the respondents have forcefully raised the plea of limitation contending that though his services were discontinued in 1981, he has filed this application after 11 years. The learned

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counsel for the applicant pointed out that no verification was sought from Station Master, Kankather where he has worked in 1986. He had been borne on the live casual register and on this basis he was called in Nov. 1989 (A-5). This Tribunal had occasion to give following observations on the subject of limitation in OA 1346/92 decided on 6.11.92 (Sh. Amir Hussain Vs. U.O.I. & Others) :

"In our opinion, the process of engagement of casual labourers borne on the Live Casual Labour Register is a continuous one and non-engagement of such a casual worker would be in the nature of a continuing cause of action. "

We reiterate the same view.

6. We have also considered another plea raised by the respondents that the applicant abandoned service of his own accord. If the technical breaks are ignored and holidays are taken into account, there are many spells when the applicant has worked for more than 120 days during a particular year thus becoming entitled to temporary status. Even according to the respondents, he worked for over 900 days between 1977 and 1981. Para 2005 of the Indian Railway Establishment Manual 1990 clearly mentions that casual labourers are entitled to a notice before their services can be disengaged. The respondents have given no such notice to the applicant.

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7. In the conspectus of the facts and circumstances of the case, the applicant is entitled to succeed. We, therefore, order and direct as follows :

1. The name of the applicant shall be entered in the Live Casual Labour Register maintained by the respondents in accordance with his seniority on the basis of period of service already admitted by the Respondents;
2. The respondents shall give an opportunity to the applicant to furnish proof regarding his service during the other periods. In case, it is found that he has served for a longer period, his seniority in the Live Casual Labour Register should be changed accordingly.
3. The applicant shall be engaged in preference to his juniors and outsiders and his case shall be considered for regularisation in accordance with his seniority in the Live Casual Labour Register.

There will be no order as to costs.

*B. N. Dhoundiyal*  
(B.N.Dhoundiyal) 27/1/93  
Member(A)

*P.K. Kartha*  
29/1/93  
(P.K. Kartha)  
Vice Chairman (J)