

IN THE CENTRAL ADMINISTRATILVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 174/1992

Date of decision: 19.02.1993

Shri Hira Lal

...Applicant

Vs.

Union of India & Others

....Respondents

For the Applicant

...Shri V.P.

Sharma, Counsel

For the Respondents

..Shri Jagjit Singh,

Counsel

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 Judgment? *Ys*

2. To be referred to the Reporters or not? *No*

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JUDGMENT

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

We have gone through the records of the case and have heard the learned counsel for both parties. Shri V.P. Sharma, learned counsel for the applicant submitted that the applicant is illiterate, that he belongs to the lowest strata of society, that he was disengaged as a casual labourer due to paucity of work, that the respondents have engaged several persons after the disengagement of the applicant, that the applicant could not afford to seek redressal of his grievance through courts in proper time and that the respondents were bound to reengage him pursuant to the directions of the Supreme Court in Inderpal Yadav Vs. Union of India, 1988(2) SCC 648 and the numerous administrative instructions issued by the Railway Board on the subject, without forcing him to knock at the doors of the Tribunal. As against the above, Shri Jagjit Singh, the learned counsel for the respondents, argued that the applicant had voluntarily abandoned the work, that he was not discharged due to completion or non-availability of work, that the applicant has not made representation to the respondents regarding his grievance and that the decision of the Supreme Court in Inderpal Yadav's

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administrative instructions relied upon by the applicant is not applicable to **his** case.

2. The learned counsel for the applicant relied upon the judgment dated 17.04.1990 in OA 1591/1989 (Lila Ram and Others Vs. Union of India and Others) and contended that the applicants in that case have been reengaged pursuant to the judgment of the Tribunal and that the applicant being senior to them, deserves to be reengaged as casual labourer. In that case, the Tribunal had, by relying upon its earlier decision dated 16.3.1990 in OA 78/1987 (Beer Singh Vs. Union of India and Others), rejected the contention of the respondents that the applicants had abandoned service on the ground that in such a case, the employer was bound to give notice to the employee calling upon him to resume duty and in case the employer intended to terminate his service, he should hold an enquiry before doing so. As against this, the learned counsel for the respondents argued that the aforesaid decisions dealt with cases of casual labourers who had acquired temporary status and were distinguishable. According to him, in the instant case, the applicant who had worked as project casual labourer had not acquired temporary status after working for 360 days in a year continuously.

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3. As regards period of service rendered by the applicant, there is divergence in the versions of both parties. According to the applicant, he has worked for more than 240 days and that he had acquired temporary status after working for 120 days continuously. According to the respondents the applicant who was a project casual labourer had not attained temporary status as he had not worked for 360 days continuously. According to the learned counsel for the applicant, the relevant records are available in the office of the respondents. The learned counsel for the respondents contended that the onus lies on the applicant to produce the evidence regarding the period of service rendered by him.

4. We are of the opinion that in the facts and circumstances of the case, the respondents should deal with the case of the applicant for reengagement/regularisation after verifying the relevant records and in the light of the scheme prepared by them and as approved by the Supreme Court in Inderpal Yadav's case and the relevant administrative instructions issued by them on the subject. During the hearing of these applications, the learned counsel for the applicant stated at the Bar that the applicant has been reengaged by the Railways after verifying the relevant records and on the basis of the interim orders passed by the Tribunal. We are of the view that irrespective of whether



the applicant is covered by the scheme prepared by the respondents pursuant to the directions contained in Inderpal Yadav's case and the various administrative instructions issued by them, the applicant who has been reengaged should be continued in service so long as respondents need the services of casual labourers and should not be replaced by persons with lesser length of service and outsiders. We do not consider it necessary for disposal of this application to go into the question whether the applicant had abandoned service or whether has approached the Tribunal belatedly, as he belongs to the lowest strata of society and is not claiming back wages.

5. The application is disposed with the following orders and directions:-

(i) Irrespective of whether the applicant is covered by the scheme prepared by the respondents pursuant to the directions contained in Inderpal Yadav's case and the various administrative instructions issued by the respondents on the subject of reengagement and regularization of casual labourers, the applicant who has been reengaged pursuant to the interim order passed by the Tribunal should be continued in service so long as the respondents need the services of

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casual labourers and he should not be replaced by persons with lesser length of service and outsiders. The interim order passed on 22.03.1991 is hereby made absolute.

(ii) After verifying the records, the respondents shall consider including the name of the applicant in the live casual labour register. They should also consider his case for absorption and regularisation after verifying the relevant records and in the light of the scheme ~~as~~ prepared by them and as approved by the Supreme Court in Inderpal Yadav's case and the relevant administrative instructions issued by them.

(iii) There will be no order as to costs.

B.N. DHOUDIYAL
(B.N. DHOUDIYAL)
MEMBER(A)
19.02.1993

KARTHA
(P.K. KARTHA)
VICE CHAIRMAN(J)
19.02.1993

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