

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

OA.No.81/92

Date of Decision: 14-8-92

Shri Taj Pal

Applicant

Shri V.P. Sharma

Counsel for the applicant

Versus

Union of India & Ors.

Respondents

Shri K.K. Patel

Counsel for 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? *Y*
2. To be referred to the Reporters or not? *Y*

JUDGEMENT

(of the Bench delivered by

Hon'ble Member Shri B.N. DHOUNDIYAL)

This OA has been filed by Shri Tej Pal, against his disengagement as a Casual Labourer in 1988. The applicant was engaged in the Bikaner Division of the Railway in 1978. He claims that he had acquired temporary status as Railway servant after completion of 120 days. He has referred to a number of judgements given by various courts, wherein, it has been held that casual labourers who have completed 360 days of service, were entitled for absorption. The Railways had to prepare a seniority list of Casual Labourers and give employment on the basis of their seniority. As he has worked for over 240 days, under section 25(f) of the Industrial Disputes Act, his services *bn*

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could not be terminated without one months notice. He states that there are a number of vacancies in the Railways and his juniors are being given preference over him.

2. The respondents have contended that any recruitment to Class-IV posts has to be done by screening all Casual Labourers already working and no one has been taken from the open market. The applicant was not engaged in the year 1978 and has forged entry in his Casual Labour card, as has been verified by the Permanent Way Inspector, Shakur Basti. He was engaged on 31.3.80 on the basis of the forged card produced by him, to show, that he had worked earlier in 1978. The protection of various judgements will not be available to him, as he obtained employment by fraudulent means.

3. We have gone through the records of the case and heard the arguments put forth by the counsel for both parties at the Bar and perused the documents on record. In accordance with the certificate given by the Permanent Way Inspector, Northern Railway Shakur Basti, the applicant has worked only for 22 days during the year 1980. A photocopy of the certificate given by the Permanent Way Inspector of other Division had been produced by the applicant as a documentary evidence showing his earlier spell in 1978.

4. Under the circumstances, we hold that it would be fair and just to give an opportunity to the applicant to prove his contention that he has worked with them since 1978. The respondents shall do so, as expeditiously as possible, and preferably within a period of three months, from the date of

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receipt of this order and if it is found that he had worked for more than 120 days, he should be considered for engagement as casual labourer, if vacancy exists, and in preference to persons with lesser length of service and outsiders. His name shall also be entered in the Live Casual Labour Register.

5. There will be no order as to costs.

B.N. Dholiyal
(B.N. DHOUNDIYAL) 14/8/92
MEMBER(A)

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14/8/92
(P.K. KARTHA)
VICE CHAIRMAN(J)

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