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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.1033/92

Date of Decision: 18-12-92

Shri Jamil

Applicant

Versus

Union of India and ors.

Respondents

Shri B.K. Batra

Counsel for the applicant

Ms. Sunita Rao

Counsel for the respondents

CORAM:

The Hon'ble Shri P.K. KARTHA, Vice Chairman (J)

The Hon'ble Shri B.N. DHOUNDIYAL, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement?
2. To be referred to the Reporter, or not? *Yes*

J U D G E M E N T

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAL)

In this OA filed under Section 19 of the Administrative Tribunal's Act, 1985, the applicant Shri Jamil, an ex-casual labour Gangman in the Northern Railway, Hapur, has alleged that his services as Casual Labourer Gangman have been terminated under verbal orders, even though, he had acquired temporary status.

2. According to the applicant, he was appointed as Casual Labourer Gangman under the PWI-Hapur and worked from 1.12.76 to 14.9.85 and again for about 60 days in 1988 i.e. for a total of 642 days. He had thus worked for more than 120 days and had acquired temporary status in accordance with the Rules. Though his juniors continued to work, his name has not been included in the Live Casual Labour Register and he has not been given any opportunity to work again. His representation dated 14.1.91 has not elicited any response. He *lv*

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has prayed that the respondents be directed to reinstate him as Casual Labourer Gangman with all consequential benefits.

3. The respondents have admitted that the applicant had acquired temporary status having worked continuously for 120 days. However, he never attended the office to accept any assignment, after 1988. Besides, he has worked in three different units and it is difficult to include his name in three different Casual Labour Registers.

4. We have heard the arguments put forth by the learned counsel for both parties at the Bar^{bw} and have^{bw} perused the documents on record. The learned counsel for the applicant has drawn our attention to the instructions issued by the Railway Board on 4.9.80, 22.10.80 and 30.3.87, providing, for preference to casual labourers having worked for longer periods than others and maintenance of Live Casual Labour Registers. The only ground on which the benefit of this scheme has been denied to the applicant is that, he abandoned the service in 1988. It has been held by this Tribunal in Beer Singh Vs. Union of India and others(1990(1) ATJ 576) that ^{bw}in cases of casual workers who have^{bw} obtained temporary status, it is incumbent on employees to issue a Show Cause notice. In this case, neither such a notice nor any offer of appointment was given to the applicant. We, therefore, hold that the applicant is entitled to succeed and dispose of the application with the following orders and directions:-

- (a) The respondents shall consider reengaging the applicant as casual labourer in preference to those with lesser length of service and outsiders.
- (b) The name of the applicant shall be borne on the Live Casual Labour Register and he shall ^{bw}

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be considered for regularisation against any vacant post in the Group 'D' cadre, but strictly, in accordance with the Rules and his seniority on the basis of length of service.

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

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

14/12/92

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

18/12/92