

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1101/92
T.A. No.

1999 92

(V5)

DATE OF DECISION 3/10/92

Shri Girish Kumar Sharma Petitioner

Shri G.D. Bhandari

Advocate for the Petitioner(s)

Versus

Union of India

Respondent

Sh. O.P. Kshatriya

Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. Dr. Jose P. Verghese, VC (J)

The Hon'ble Mr. S.P. Biswas, AJ (AT)

1. To be referred to the Reporter or not?
2. Whether it needs to be circulated to other Benches of the Tribunal?

(Dr. Jose P. Verghese)
VC (J)

Central Administrative Tribunal
Principal Bench: New Delhi

OA No.1101/92

(b)

New Delhi, this the 32d day of October, 1997

Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)
Hon'ble Shri S.P. Biswas, Member (A)

Girish Kumar Sharma
s/o Shri M.P. Sharma,
r/o Jhuggi GP Block,
Maurya Enclave,
Delhi-34.

....Applicant

(By Advocate: Shri G.D. Bhandari)

versus

Union of India through

1. The General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway, m
Moradabad (UP).
3. Assistant Engineer,
Northern Railway,
Chandausi, UP. Distt. Moradabad. Respondents

(By Advocate: Shri O.P. Kshatriya)

O R D E R
[Hon'ble Dr. Jose P. Verghese, Vice-Chairman (J)]

This petition was filed by the petitioner on 21.4.1992 complaining that the Divisional Railway Manager at Northern Railway, Moradabad could not send any report as to the verification of the casual labourer service rendered by the petitioner with the respondents. The respondents themselves have intimated the authority by a letter dated 11.8.1989 that the petitioner had worked for 212 days as group 'C' casual labourer and the said authority were to explain under what circumstances the petitioner was engaged as group 'C' and under whose orders. By a letter dated 19.11.1991 the Assistant Engineer, Northern Railway,

Chandausi again reminded the Divisional Railway Manager to intimate him the final decision taken in this regard. Thereafter nothing has been heard by the petitioner and the petitioner filed this OA on 21.4.1992. (7)

The case of the petitioner was that he has been working for a total period of 212 days between 1.9.1980 to 14.4.1981 and as per the orders of the Railways contained in the Indian Railway Establishment Manual, the petitioner, a casual labourer who has been working for more than 120 days continuously, is deemed to have acquired temporary status and as such his removal from service is illegal and he is entitled to re-instatement. The petitioner relied upon the decision of the Hon'ble Supreme Court in the case of Inder Pal Yadav reported in JT 1993 [3] SC p. 418 and subsequent orders passed in this regard and submitted that the petitioner is entitled to re-instatement as most of the persons who had acquired temporary status during the period have been reinstated in accordance with the Scheme except the petitioner.

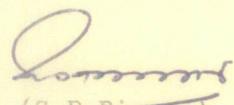
The respondents in their reply stated that the petition is awfully time barred and it deserves to be dismissed. We are of the view that on the basis of the correspondence going on inter-departmentally and the final order issued on 19.11.1991 at Annexure A-1 also indicates that no final decision has been taken with respect to the case of the petitioner, we are afraid that the case of the petitioner cannot be dismissed on the ground of delay especially because the delay has occurred with respect to the respondents to take appropriate decision in time.

With regard to the claim of the petitioner that he is entitled to re-instatement as per the orders of the Hon'ble Supreme Court in Inder Pal Yadav's case and subsequent orders and that many of the similarly placed colleagues of the petitioner had been reinstated in accordance with the Scheme formulated by the respondents themselves and accordingly petitioner is also entitled to re-instatement with all consequential benefits, it is stated that the petitioner is also entitled to the same treatment as that of his colleagues since no final decision has been taken by the respondents as evident from the letter of the respondents annexed as Annexure A-I.

In the circumstances we are of the considered view that in accordance with Rule 2007 (3) of Indian Railway Establishment Manual, respondents are directed to consider the regularisation of the services of the petitioner as Typists namely in Group 'C' in accordance with the relevant Scheme and as and when the next vacancy arises after passing of this order in case the petitioner is found eligible in accordance with the Rules and available, the respondents shall grant relaxation of age and consider his case for appointment as a group 'C' Typist, giving benefit of the temporary status which he has already acquired by working more than 120 days, in accordance with the Rules. In the circumstances of the case, we are not inclined to give any benefits such as the back wages or any other service benefits except the benefit of the temporary status until the petitioner is considered for appointment to the

next available vacancy in accordance with the Rules.

With this, this OA is allowed to the extent stated above. There shall be no order as to costs.



(S.P. Biswas)
Member (A)



(Dr. Jose P. Verghese)
Vice-Chairman (J)

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