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Central Administrative Tribunal
Principal Bench, New Delhi.

OA-459/93
MA-577/93

HON'BLE MR. JUSTICE CHETTUR SANKARAN NAIR, CHAIRMAN
HON'BLE MR. S.P. BISWAS, MEMBER(A)

New Delhi this the 11th day of November, 1996.

Shri Sushil Kumar Sharma,
S/o Shri Brij Mohan Sharma,
C/o Shri B.S. Mainee,
240 Jagriti Enclave,
Vikas Marg Extn.,
Delhi-110092. Applicant

(through Shri B.S. Mainee, advocate)

versus

1. Union of India through
the General Manager,
Northern Railway,
Baroda House,
New Delhi.
2. The Divisional Railway Manager,
Northern Railway,
Allahabad.
3. The Permanent Way Inspector(Special),
Northern Railway,
Etawa. Respondents

(through Shri P.S. Mahendru, advocate)

The application having been heard on 11.11.1996 the
Tribunal on the same day delivered the following:

ORDER

Chettur Sankaran Nair(J), Chairman

A casual labourer who ceased to work after
28.07.1985 seeks a direction to engage him under
respondents. Applicant worked between 10.9.1984 and
28.7.1985 for 301 days. Thereafter he was denied work
according to him, and he abandoned work according to
respondents. Applicant would submit that notice should
have been issued to him, his defence considered and then
only his services terminated. He relied on the decision
of the Madras Bench of this Tribunal in G.
Krishnamurthy Vs. Union of India and Others (1989(9)
ATC 158) to support this proposition. We are afraid

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that the decision of the Madras Bench is not good law in the light of the decision of the apex court in State of Gujrat versus P.J. Kampavat (AIR 1992 1685). In the case of temporary employees, such notice and enquiry is not necessary.


2. It was then submitted by counsel for applicant that the decision of the Tribunal was 'affirmed' by the Supreme Court as the Special Leave Petition against that was dismissed. According to learned counsel for applicant dismissal of a Special Leave Petition must be treated as affirmation of the decision sought to be appealed against. Neither principle nor precedent supports or can support this view. A Special Leave Petition is only for leave to an appeal and in a Special Leave Petition there is no declaration of law under Article 141 of the Constitution of India. Authority is legion for this proposition, and if it is needed it is found in Daryao and others vs State of U.P. and others (AIR 1961 SC 1457). This contention also must be repelled. Question of abandonment is to be decided with reference to attendant circumstances. It does not necessarily call for a chargesheet, an enquiry and the finding, as in a disciplinary proceeding.

3. Applicant has further claimed that in terms of Circular No.E(NG)II/78/CL2 dated 25.4.1986 (PS 8989) any person discharged has to be included in a Live Casual Labour Register. For this benefit, applicant may

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make a representation before second respondent and it is for second respondent to consider whether the case of applicant is a case of discharge and whether the circumstances require inclusion of his name in the Live Casual Labour Register as contemplated by the circular aforesaid. Subject to this direction, we dismiss the application. No costs.

Dated, 11th day of November, 1996.


(S.P. Biswas)

Member(A)



(Chettur Sankaran Nair(J))

Chairman

/vv/