



Reserved

Central Administrative Tribunal, Allahabad
Registration T.A.No.55 of 1986 (Civil Appeal No.466/84)

Union of India and another ... Appellants
Vs.
Chattrapal and 4 others Respondents.

Hon. D.S.Misra, AM
Hon. G.S.Sharma, JM

(By Hon. G.S.Sharma, JM)

This civil appeal against the judgement and decree dated 31.5.1984 passed by the Additional Civil Judge, Allahabad in original suit no.41 of 1983 has been received by transfer from the Court of District Judge, Allahabad under Section 29 of the Administrative Tribunals Act XIII of 1985.

2. Chattrapal and 4 other plaintiff-respondents had filed the suit giving rise to this appeal in the Court of Civil Judge Allahabad for permanent injunction to restrain the defendant-appellants from removing them from service and in the alternative for a declaration that in case of their removal, the same be held to be illegal, invalid and without jurisdiction with the allegations that they were appointed temporarily in the service of the Northern Railway on various dates in the years 1976, 1977 and 1978 and were appointed substantively as class IV railway employees by the Divisional Railway Manager, Allahabad in 1981 and acquired a lien on their respective posts under the rules. It was

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further alleged that on the expiry of the probation period of one year, the plaintiffs should be deemed to be appointed substantively and they could now not be removed from service arbitrarily. Apprehending that the defendant-appellant no.2 I.O.W.Fatehpur under whom the plaintiffs were working, wanted to remove them illegally, they filed the suit for the reliefs already mentioned above with the further allegation that some persons junior to them are still working and the plaintiffs cannot be removed from service in contravention of the provisions of Articles 14,16, and 311 of the Constitution of India.

3. The suit was contested by the defendants and in the written statement filed on their behalf it was admitted that the plaintiffs were appointed in 1976 and 1977 and from 1981, they were granted the revised pay scale from the dates mentioned in para 10 of the written statement. It was further stated that the plaintiffs are working purely on temporary basis on ad-hoc posts according to the job requirement and they are still casual labourers and their services could be terminated by giving them 14 days notice under the Rule 149 of the Railway Establishment Manual(for short R.E.Manual) and there is no question of their acquiring any lien on their post. Their services are likely to be terminated after the expiry of the sanction of the post and job. There is no violation of any rule or the principles of natural justice in the case of the

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plaintiffs. It is also not correct to say that persons junior to the plaintiffs are being retained ignoring the claim of the plaintiffs. // The learned trial Court framed the necessary issues in the case and held that on account of their service for more than 120 days, the plaintiffs acquired the status of temporary employees in view of Paragraph 2501-B of the R.E. Manual and their services cannot be terminated without due notice or under the provisions of Railway Servants (Discipline and Appeal) Rules, 1968 (for short D.A. Rules). The suit was accordingly decreed and the defendants-appellants were restrained from removing the plaintiff-respondents from service otherwise than in due course of law. Aggrieved by the findings against them, the defendants preferred this appeal.

4. At the time of hearing before us, the learned counsel for the appellants contended that Paragraph 2501-B (I) of the R.E. Manual is not applicable to the plaintiffs and in view of Paragraph 2302 of the R.E. Manual, no notice is required for the termination of the services of the plaintiffs and in view of the Civil Laws Amendment Act, 1976, no temporary injunction could be granted by the trial Court in this case and no advantage of the same can be had by the plaintiffs. The appeal has been contested on behalf of the plaintiff-respondents and their simple contention is that under Paragraph 2501-B(I) of the R.E. Manual, the plaintiffs acquired the status of temporary employees on account of their remaining in service continuously for more than 120 days and

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they became entitled to all the rules applicable to the temporary railway servants and the trial Court was right in decreeing the suit.

5. We have carefully considered the contentions raised on behalf of the parties before us and find no force in this appeal. As a matter of fact, the defendant-appellants should have submitted to the decree passed by the Civil Court and should not have preferred this appeal at all. The material facts of this case are undisputed and almost admitted. It appears from the ~~own~~^{findings} of the appellants that by the time the plaintiffs filed this suit, they had already served for more than 120 days continuously and had acquired the status of temporary railway employees and were also granted the revised pay scale of the temporary railway employees w.e.f. 1981. The D.A. Rules, therefore, became applicable to the plaintiffs and their services could not be dispensed with summarily without observing the relevant rules. In case of any misconduct the plaintiffs have to be charge sheeted and proceeded against under the D.A. Rules. In case the post, on which the plaintiffs are working are abolished or for want of sanction or any other such problem, the services of the plaintiffs are no more required by the railway administration, they can be removed from service only after due notice and other formalities under the rules. In that event, there can be no discrimination against them and the

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juniors to the plaintiffs have to go first. Nothing further has been granted by the trial Court to the plaintiffs. It has not prohibited the appellants from dismissing or removing the plaintiffs in accordance with law. There can be, therefore, no grievance of the appellants against such decree of the trial Court. We also do not find any force in the contention of the appellants that on account of any illegality or irregularity allegedly committed by the trial Court in granting the temporary injunction in this case in favour of the plaintiffs the decree ultimately passed in the suit can be rendered illegal or void . Permanent injunction of the nature passed by the trial Court could always be issued by the Civil Court on the relevant dates in favour of the plaintiffs. In this way, there is no merit in this appeal and it has to be dismissed.

6. The appeal is accordingly dismissed without any order as to costs.

Shme 31.7.87

Member (A)

Shme 31/7/87
Member (J)

Dated 31.7. 1987
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