

13
1

RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (T.A.) No. 1377 of 1986
(Original Suit No.517 of 1984)

Raj Singh Plaintiff-Applicant.

Versus

Union of India Defendant-Respondent

Hon'ble G.S. Sharma, J.M.
Hon'ble K.J. Raman, A.M.

(Delivered by Hon. K.J. Raman, A.M.)

In this case the plaintiff, Raj Singh, had filed this suit in the court of Munsif, Moradabad in 1984. The said suit has been transferred to this Tribunal for decision under the provisions of Section 29 of the Administrative Tribunals Act,1985.

2. The facts of the case, in brief, are that the plaintiff was a Casual Electrical Khallasi working under the Permanent Way Inspector, Raja-ka-Sahaspur in the Northern Railway at the time of filing the suit. The grievance of the plaintiff is that even though he had put in a service of 1035 days with the Northern Railway upto 4.2.1983, he has not been regularised or treated as a temporary employee of the Railways, even though a number of his juniors have been so regularised ~~which~~ ¹³² given temporary status. He has, therefore, prayed for a declaration that he is a regular Electrical Khallasi with all consequential benefits connected with the job from the date his immediate junior was given regular employment in the Moradabad Division of the Northern Railway.

3. In the written statement the defendant has not questioned the various service data, furnished by the plaintiff in his plaint, whereas the plaintiff has stated that he had put in a continuous

WRC

service of 132 days under the Electrical Chargeman, Hapur from 1980 to 1982, the defendant says that this period contains breaks on 18.1.1982 and 2.1.1982 (para 2 of the written statement). The defendant denied that any junior has been regularised or given regular employment in preference to the plaintiff. In para 5 of the written statement, however, it is stated that one M.C. Pal, a person junior to the plaintiff, was appointed under the orders of the Senior Divisional Electrical Engineer, Moradabad.

4. We have heard the learned counsel for the parties. During the oral arguments, the dispute centred mainly on the question whether the plaintiff had put in a continuous period of service exceeding 120 days. The learned counsel for the plaintiff referred to the service card in this respect, the entries of which was not disputed by the opposite side. He also referred to the policy giving temporary status to such casual labour as the plaintiff in this case. The policy is contained in a documents submitted during the oral arguments and is amongst the records. The correctness or authenticity of this document or its content has not been doubted or questioned by the learned counsel for the opposite side. This document submitted states that ~~all~~ such of those persons, who continued to do some work for which they are engaged or other work of the same type for more than 120 days continuous service, acquire temporary status. Significantly, the next para deals with break in service and states that in the cases listed therein, absence will not be considered as break in service for the purpose of 120 days continuous service. Item ~~(b)~~ in this list includes authorised absence not exceeding 20 days including 3 days unauthorised absence for personal reasons (emphasise supplied). The learned counsel for the plaintiff pointed out to this provision and stated that the alleged absence on 18.1.1982 and 2.1.1982 is well covered by the above provision in the Railway rules. In para 2 of the written statement, the defendant do admit ^{between} that ~~from~~ 1980 ^{and} ~~to~~ 1982, the plaintiff has worked for 132 days with

a break on 18.1.1982 and 2.1.1982 only. Even if these two days' absence is treated as 'unauthorised' (for which there is no evidence) still under the policy guideline referred to above, such absence being within 3 days, should not be counted as a break in service. The learned counsel for the defendant did not advance anything in particular to contest this argument. It has, therefore, to be held that the plaintiff had in accordance with the relevant instructions of the Railways completed more than 120 days continuous service upto 26.2.1982 and had acquired temporary status under the Rules.

5. The plaintiff has claimed his regularization in service on the basis of his having attained the temporary status. It, however, appears from his pleadings that the plaintiff was not in service on the date the suit was filed. He has not sought the relief for his reinstatement in service. He did move a belated application for amendment on the date of arguments on 25.4.89 for a declaration that the order of termination of the services of the plaintiff is illegal and without jurisdiction but the said amendment was refused and as such, the question of reinstatement of the plaintiff cannot be gone into in this case. However, as the plaintiff had worked as a casual labour for a long period commencing from 13.10.1978 he is entitled to be considered for his regularization in the Railway service in accordance with the scheme framed by the Railway Board in pursuance of the directions of the Hon'ble Supreme Court in Inder Pal Yadav Vs. Union of India

(1985(2) All India Service Law Journal-58) on his turn.

km

83
4

6. The suit is disposed of accordingly without any order as to costs.

W.M.C. (A)

~~MEMBER (A)~~

S. Sharmin

MEMBER (J)

Dated 24th May, 1989
PG