

CENTRAL ADMINISTRATIVE TRIBUNAL ALIAHABAD BENCH.

T.A.No.1535 of 1986

Moti LalApplicant.

Versus

Union of India & othersRespondents.

Hon'ble Mr.Justice U.C.Srivastava,V.C.

Hon'ble Mr.K.Obayya,A.M.

(BY Hon'ble Mr.Justice U.C.Srivastava,VC)

This is a transferred case under section 29 of the Administrative Tribunals Act,1985.

The applicant filed a suit initially in the Court of Munsif West,Allahabad on 19.1.85 praying that it may be declared that the termination order dated 20.4.72 is null and void . Prior to the termination of the services, the applicant filed a suit in the Court of Munsif West,Allahabad for restraining the defendants from removing him from service. The said suit was dismissed. The applicant/^{preferred}an appeal in the Court of District Judge, Allahabad which was transferred to the Court of I Addl.District Judge,Allahabad and the appeal was allowed and vide order dated 15.12.83, the order of dismissal was set aside and the plaint was directed to be returned back to the plaintiff for presentation in the proper court at Kanpur. Thereafter, the suit was instituted in the Court of Munsif,Kanpur. The applicant filed the suit with the allegation that he was appointed as casual labourer on Rs.60/- per month w.e.f. 19.8.70. On 1.3.71, he was promoted on permanent post of Khalasi in the grade of 75-1 $\frac{1}{2}$ -105 and was getting

W

(A/2)

-2-

Rs.185/- per month as salary inclusive of all allowances admissible to Class IV post held by him. His services were abruptly terminated vide the impugned order dated 20.4.72. According to the applicant, he was governed by Rule 104 of Chapter II of the Indian Railway Establishment Manual where the Railway Board has fixed maximum period of probation as one year and in accordance with the provisions of this rule, the applicant after the expiry of the probationary period of one year, confirmed and acquired temporary status. The termination order has been challenged on the ground that Section 25(F) of the Industrial Dispute Act provides a particular procedure to be followed for terminating services of such an employee but that procedure has not been followed and the juniors to the applicant have been retained in service. It appears that no written statement was filed by the respondents and ultimately this case was transferred to this tribunal. No written statement has been filed even before the tribunal and as such the averments, made by the applicant, have got to be admitted. 20 years have passed and it is not possible to grant an effective relief to the applicant who had attained the temporary status. However, the contention of the applicant appears to be correct that the provisions of section 25(F) of Industrial Dispute Act were not followed, the result of which is that the termination order will be void but that does not mean that the applicant may be reinstated in service after expiry of 20

W

A2/3

years. As the termination order is found void, the respondents are directed to reconsider the case of the applicant in case his juniors were retained in service and were later on regularised and the applicant was thrown out of service without any rhyme and reason. Let a decision in this behalf be taken within a period of three months from the date of communication of this order. In case it is found that the applicant's juniors were retained in service and the applicant was thrown out of service, the applicant will also be deemed to be continuing in service and like similarly placed other employees, he will not get any wages for these years. With these observations, the application is disposed of without any order as to costs.

[Signature]
MEMBER (A)

[Signature]
VICE CHAIRMAN.

DATED : APRIL 20, 1992

(ug)