

(A/C 5)

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No. 1197 of 1987

Ganga Prasad Applicant

Versus

D.R.M. Central Railway
Jhansi and Others. Opposite Parties.

Hon. Justice K. Nath, V.C.

Hon. K.J. Raman, A.M.

(By Hon. Justice K. Nath, V.C.)

This application under Section 19 of the Administrative Tribunals Act, 1985 is for quashing an order dated 26.12.86 contained in Annexure-I whereby the applicant's services as Casual Labour were terminated with effect from expiry of fifteen days of receipt of the order.

2. It is admitted that the applicant, Ganga Prasad joined as Casual Khalasi on 2.4.83, but his services were terminated under the impugned order on the basis that his very appointment was illegal *ab initio*.

3. It is not disputed that in the year only those persons were being recruited as Casual Khalasis who had worked in that capacity some time before 1.8.78. One of the documents containing the record of service rendered by a Casual Khalasi is his Casual Labour Card. The applicant had a Casual Labour Card and therefore was given appointment on 2.4.83. According to the opposite

parties the Casual Labour Card of the applicant was forged and bogus. For that reason the applicant's initial appointment was treated by the opposite parties to be illegal and his services were terminated.

4. The simple claim of the applicant is that before holding the applicant's Casual Labour Card to be bogus or forged no opportunity whatsoever was given to the applicant. Indeed in para 7 of the rejoinder it has been stated that the applicant did not secure his appointment as Casual Labour on the basis of the so-called forged Casual Labour Card. The applicant is alleged to have secured temporary status (vide para 4 of the rejoinder) on the basis of having completed more than 4/6 months continuous service as Casual Labour. It is plain enough that since the opposite parties terminated the services of the applicant on the basis of the Casual Labour Card being forged, his case of temporary status was not examined by the opposite parties before the issue of the impugned termination order.

5. The matters regarding termination of services of Casual Labour on the ground that the erstwhile Casual Labour Cards were forged or bogus has received the attention of this Tribunal in several cases and the view taken is that having regard to the principles of natural justice it was not ~~permissible~~ for the opposite parties to record a finding that the applicant's Casual Labour Card was forged or bogus

without giving an opportunity of being heard. That view is equally applicable to the present case and therefore the application should succeed in that light.

6. The application is allowed and the impugned order of termination contained in Annexure-I dated 26.12.86 is quashed. The applicant is directed to be reinstated within one month from the date of receipt of a copy of this judgement. The applicant shall be paid wages from the date of reinstatement and shall not be paid any back wages. It shall be open to the opposite parties to institute a proper enquiry into the genuineness or otherwise of the applicant's Casual Labour Card after giving reasonable opportunity to the applicant in the matter. Parties shall bear their costs.

(Signature)

Member (A)

(Signature)

Vice Chairman

Dated the 16 Feb., 1990.

RKM