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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

...

O.A. No. 170 of 1987

Dated: 28.3.1995

Hon. Mr. Justice B.C. Saxena, V.C.
Hon. Mr. S. Das Gupta, Member (A)

1. Om Prakash , son of Sri Ram Swarup,
C/o I.O.W. Construction Division,
Badshahnagar, Lucknow.
 2. Krishna Kumar son of Ram Prasad,
C/o I.O.W. Construction Division,
Badshahnagar, Lucknow.
 3. Gajraj, son of Ram Awadh,
C/o I.O.W. Construction Division,
Badshahnagar, Lucknow.
 4. Bhrigunath Singh, son of Hardeo
Singh, C/o I.O.W. Construction Division,
Badshahnagar, Lucknow.
 5. Ayodhya Prasad, son of Deoki Nandan,
C/o P.W.I. Construction Division,
Badshahnagar, Lucknow.
 6. Ram Nath, son of Sita Ram, C/o Deputy
Chief Engineer, Lucknow Division, D.R.M.
Office, Lucknow.
 7. Kalpa Nath, son of Ram Badan,
C/o P.W.I. Construction Division,
Lucknow.
 8. Peer Mohammad son of Habib,
C/o P.W.I. Construction Division,
Lucknow.
 9. Bhagwandin , son of Ramma,
C/o P.W.I. Construction Division,
Lucknow.
- ... Applicants.
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- 2 -

(By Advocate Sri A.K. Sharma,
now died)

VERSUS

1. Union of India, Ministry of
Railways, New Delhi.
2. General Manager, N.E. Railway,
Gorakhpur. ... Respondents.

(By Advocate Sri A.K. Gaur)

O R D E R (oral)

(By Hon'ble Mr. Justice B.C. Saxena, V.C.)

The applicants were represented through Sri A.K. Sharma, Advocate who who is reported to ~~be~~ have expired and notices were issued to the applicants, C/o Inspector of Works concerned, under whom, in that O.A., they were working. The said notices were returned undelivered with an endorsement that the applicant Nos. 1,3,4,7,8 & 9 were not found at the place of their address. The applicants, after the death of their counsel were duty bound to engage some one else as their counsel but they ^{did} not do so. Sri A.K. Sharma, Advocate ^{reportedly} died in January, 1992.

2. ^{Instead} ~~In spite of~~ dismissing the O.A. in default, we have gone through the pleadings on record and have heard Sri A.K. Gaur, learned counsel appearing for the respondents. The applicants have filed this O.A. challenging the retrenchment notice dated 31.1.1987 issued by the Dy. Chief Engineer Construction Division, Lucknow. In the counter affidavit, it has been stated that in the light of the judgment of Hon'ble Supreme Court in Indrapal

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Yadav's case, with a view to adjust the casual workers who have put in longer period of service, they have been observed and in the process of adjustment, it has become necessary to retrench the services of the applicants who are very low in the seniority list. In the counter affidavit, it has also been indicated that as per the direction of the Hon. Supreme Court, a seniority list of casual labourers has been prepared divisionwise.

3. In the supplementary affidavit filed on behalf of the respondents, it has been indicated that the applicant Nos. 5, 8 & 9 have been reengaged. Being in the zone of consideration as per the seniority list of the Lucknow construction division, they have been directed to resume their duties w.e.f. 16.9.1992. In respect of the remaining applicants, it has been stated that their position in the seniority list is much lower and they were not within the zone of consideration at the moment and the persons senior to them are still waiting for their turn, as such, they were considered for appointment as per their seniority.

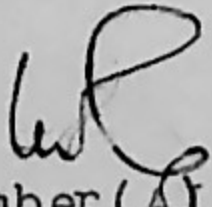
4. The applicants have also challenged the notice for retrenchment on the ground that the provision of Sec. ^{25F} 28 of the Industrial Disputes Act has been violated. In the counter affidavit it has been indicated that the applicants have been given full payment of the compensatory dues

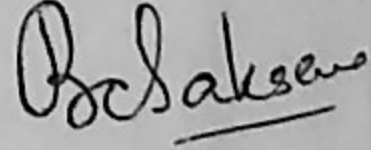
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leave encashment, one month's advance pay in lieu of notice of retrenchment along with other dues on 14.2.1987 before their retrenchment. It has also been indicate that the notice in the prescribed manner was served on the appropriate Government as revised under Section 25F(C) and Rule 76 of Industrial Disputes Act, 1947 and Rule, 1957.

5. In the written statement, the details of the number of working days of each of the applicants have also been given. Since the remaining applicants who would not be reengaged after the retrenchment, are much below in the order of seniority, we have no manner of doubt that the respondents ^{would} ~~were~~ be given effect to the assurance given in the written statement and in the supplementary reply that the remaining applicants shall be taken on job in accordance with their seniority as and when necessary posts became available for their reengagement.

6. With these observations, the O.A. is disposed of. There will be no order as to costs.


Member (A)


Vice-Chairman

(n.u.)