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Court No.1

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration T.A. No.1263 of 1987
(W.P.No.5691/83 of the Hon.High Court)
Allahabad

Khursheed Ali and Petitioner
four Others

Versus

Union of India & Others Respondents

Hon.Mr.Justice K.Nath, V.C.

Hon.Mr. A.B.Gorthi, Member(A)

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

The Writ Petition described above is before us under Section 29 of the Administrative Tribunals Act, 1985 for quashing five orders dated 29.4.83, Annexures 1 to 5 whereby the petitioners were discharged from service as non panelled substitutes on expiry of 15 days notice. There is also a prayer for directing the respondents to treat the petitioners as temporary railway servants and to allow them such other benefits as may be admissible under the law.

2. It appears that five petitioners were working as substitutes on the post of Cleaners from March, 1981 but were discharged from service under the impugned orders. It is stated that the petitioners having put in more than six months of continuous service had acquired a temporary status, and therefore were entitled to be retained in service as compared with their juniors who are mentioned in para 8 of the petition and alleged to have continued in service while the petitioners were discharged.

3. It appears that the Counter Affidavit was filed in the High Court but was not to be found on the record

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of this case which was received by transfer. The learned counsel for the petitioners has made available to us his paper book which contains a copy of the Counter Affidavit. In para 4 of the Counter Affidavit, it is stated that the termination orders of all the petitioners were cancelled by order dated 1.11.83, a copy of which was Annexure-A to the Counter Affidavit. It is further stated that the petitioners joined duties and were being paid their salaries regularly and that even the intervening period till reinstatement had been treated as on duty. Annexure-A mentions that the impugned termination order is cancelled under the directions of the superior authority.

4. It may be mentioned that an interim order was passed by the Hon'ble High Court on 20.5.83 by which the operation of five termination orders was stayed. That interim order has continued to remain in force.

5. The learned counsel for the petitioners refers to a Supplementary Affidavit dated 11.9.90 of the petitioner viz. Shri Krishna in which it is stated that in addition to the revocation of the termination orders, the petitioners have also been screened and have been found suitable for the post of Cleaner and therefore their names have been included in the panel provisionally. The copy of the panel is Annexure-Aⁿ to the Supplementary Affidavit.

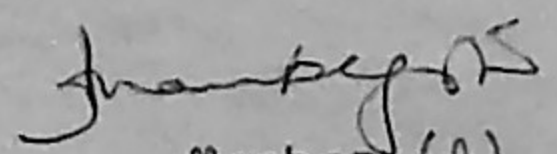
6. The learned counsel for the petitioners says that although the petitioners have got the relief of revocation of the termination order and have also been


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placed on the panel aforesaid they have not been given their seniority and other benefits on the Department's stand that those aspects of the service conditions would be considered only after the disposal of the petition.

7. The record does not show that the termination of the services of the petitioners was valid. It is not necessary to say anything further in this regard in view of the position that the respondents have withdrawn the termination orders and have treated the petitioners to be on duty. What benefit the petitioners are entitled to is a matter to be considered by the Department and it is expected that the respondents will give due consideration to the petitioners' rights in consequence of the revocation of the termination orders and of treating them on duty as also of empanelling them in Annexure-A to the Supplementary Affidavit. This petition is therefore allowed in the above terms. There will be no orders as to costs.


Member (A)


Vice Chairman

Dated the 9th April, 1991.

RKM