

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

TR. APPLICATION NO.1389(T) OF 1987.

Avadhesh Kumar & Others.

.. Applicants.

v/s.

Union of India & Others.

.. Respondents.

Coram : Hon'ble Shri U.C. Srivastava, Vice Chairman.
Hon'ble Shri A.B. Gorthi, Member(1).

ORAL JUDGMENT :

DATED : 15.5.1991.

[PER : Hon'ble Shri U.C. Srivastava, Vice Chairman.]

These seven applicants working as Casual Labours with the Railway and getting various privileges have been thrown out from service after several months of their work after they had already acquired temporary status on the ground that the Labour Cards/produced by them were found to be fake by the Railway Administration. It has been stated that the first 3 applicants undoubtedly have worked in the Railway Administration for more than the statutory period for obtaining temporary status and have been in the posts of Class IV employees and have undergone medical test. But so far as the applicant concerned, it has been stated that they have been working as Casual Labour in the Railway Administration. Of any one and rather challenge of fraud was made. In the rejoinder affidavit it was reasserted that they have worked like other applicants and that M/s. Pay Sheets and such documents maintained by the administration would indicate that they have worked for the statutory period but are being wrongfully thrown out and claim.

2. Even though prayer for permanent status was made by the same have not been granted. The documents could have given indication of the truth lie. It has also been noted that the application was filed after the applicants have been thrown out.

Members of Parliament and Legislative Council who had sponsored their claim and they also resorted to hunger strike. So far as the first 3 applicants are concerned undoubtedly after working for 6 months they have attained temporary status and their services could not have been terminated in this manner. If temporary Government Servants like these 3 applicants have committed certain frauds, it is only after holding inquiry that their services could have been terminated. The termination without giving them opportunity of hearing on the ground of fraudulent labour cards is a penal and violative of Article 311 of the Constitution of India. This application which has been transferred to this Tribunal from the High Court is allowed so far applicants nos. 1 to 3 are concerned and the oral order passed on 17.5.1983 is quashed and is declared to be non existent and these applicants shall be deemed to be in service for the purpose of continuity and other purposes except back wages. They will not be paid backwages from the date of termination upto this date in view of the fact that they have not worked, though because of wrong action of the Railway Administration. So far as the other 4 applicants are concerned the Railway Administration is directed to make an inquiry through a Senior Officer within a period of 2 months from the date of communication of this order to find out as to whether they too have worked as has been claimed by them. A date shall be fixed by that officer who will look into muster roll, pay sheets and such accounts maintained for the said period for such employees. Incase their contention is found true they will also be entitled to the same relief as has been given to the 3 applicants and in case the same is not proved this application shall be deemed to have been dismissed so far they are concerned.

There will be no order as to costs.

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(A.B. GORTHI)
MEMBER(A).

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(U.C. SRI VASTAVA)
VICE CHAIRMAN.