

Central Administrative Tribunal, Allahabad.

Registration T.A.No. 1394 of 1987

Ram Prasad ... Applicant

Vs.

Union of India and others ... Respondents.

Hon P.S.Habeeb Mohammad, AM
Hon.J.P.Sharma, JM

By J.P.Sharma.

The Applicant-Ram Prasad was a Monthly Rated Casual Labour in the Central Railway. The Applicant was served with a notice dated 5.4.1984, annexure 1 to the writ petition, that his services have been dispensed with from 19.5.1984. On 2.5.84 the Applicant filed the writ petition No.6305 of 1984 before High Court, Allahabad on which notices were issued and the operation of the impugned order dated 5.4.1984 was stayed.

2. In the writ petition, the Applicant claimed the relief in the nature of writ of certiorari for quashing the impugned notice for terminating his services w.e.f. May 1984 (annexure 1); writ of mandamus that the services of the Applicant be regularised and order in the nature of mandamus restraining the Respondents from interfering with the working of the Applicant as MRCL. The Applicant has also annexed to the writ petition a list of persons working as MRCL.

3. The Respondents had filed the Counter Affidavit before High Court sometime in 1985 but the same is not available on record. However a copy thereof has been given by Sri P.N.Katju, learned counsel for the Respondents which has been kept on record in the presence of Sri D.P.Singh, Brief Holder of Sri V.B.Singh, learned counsel for the Applicant.

4. On the enforcement of Administrative Tribunals Act XIII of 1985, the writ petition stood transferred to the Tribunal under S.29 of the said Act.

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5. There is a report in the margin of the order sheet dated 2.3.1990 to the effect that there is a stay order passed by the High Court on 17.5.84 on the back of the stay application staying the operation of the impugned order. The office, therefore, listed this case for hearing before a Bench of this Tribunal on 29.3.1990. Now, the matter has come today for orders.

6. Sri D.P.Singh, learned counsel addressed the Bench that he has no instructions in this case though he holds the brief for Sri V.B.Singh who had filed this writ petition before the High Court.

7. Sri P.N.Katju, learned counsel for the Respondents pointed out that the matter is pending since long. The writ petition was filed in 1984 and the Applicant on the garb of the stay order passed by the High Court is still working.

8. An application for vacation of stay was also filed in 1985 but it remained undisposed of. Para 36 of the Counter Affidavit is relevant wherein it has been stated that :-

" It may be mentioned here that before the stay order of this Hon.Court being communicated to the authority concerned sanction of work charged labour had been received from him for the petitioner continuing in service."

The Applicant has not yet been terminated and the impugned order dated 5.4.1984 has become infructuous in view of what has been stated by Respondents in para 36 of their Counter, aforesaid. Therefore, in respect of relief no.1 prayed by the Applicant, nothing is to be done now.

9. As regards relief no.2 for regularization, a direction is given to the Respondents to regularise the Applicant according to relevant rules and directions of Hon'ble Supreme Court in Inderpal Yadav Vs. Union of India (1985 (2) All India Service Law Journal-58). As regards temporary status to the Applicant, we direct the Respondents to decide ~~the~~ the same in accordance with relevant rules.

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10. The transferred application/writ petition is disposed of accordingly without any order as to costs.

J. J. Mace

MEMBER (J)

Dated: 10.5.1990

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[Signature]
10.5.1990
MEMBER (A)