

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD

Registration T.A No.1688 of 1987.

Kishun & Others Petitioners.

Versus.

Union of India & Others Respondents.

Connected with

T.A No. 18 of 1988.

Subedar and Others Applicants.

Versus.

Union of India & others Respondents.

Hon'ble Ajai Johri, A.M.

Hon'ble G.S.Sharma, J.M.

1. This is a Writ petition received on transfer from the Allahabad High Court under section-29 of the Administrative Tribunals Act 1985.
2. There is another petition having No.18 of 1988(T)(W.P 7105/85) Subedar and others Vs. Union of India & others which is similar in nature involves same point of law. Therefore the order given in this petition will also apply to that case.
3. By this Writ petition the petitioner and another who were working as Casual Labour on the Eastern Railway and who are not allowed to continue by a verbal order on 28.2.85, have requested for issue of a direction to the respondents to produce the order of authority under which the petitioners were removed and for designating them as permanent workers. The petitioners case is that they have worked for a period exceeding 240 days and were therefore covered by the provisions of the Industrial Dispute Act and their services could only be terminated by following the provisions of ^{Sec 31} 25-F of the I.D. Act. Since this was not done the action of the respondents in not continuing them was illegal and they are entitled to the reliefs ³¹ payed for.

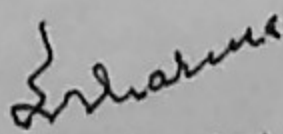
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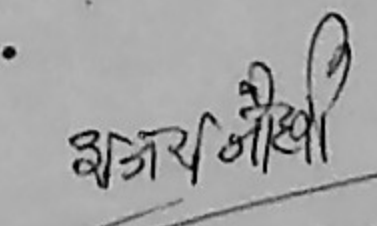
4. We have heard Shri.S.Hagnain for the petitioners and Shri.G.D.Mukherjee for the respondents. The respondents version as placed before us by the learned counsel Shri.G.D.Mukherjee, was that the petitioners had sought employment as Casual Labour by impersonation and when this fact came to their notice they were not allowed to report back to work. According to the learned counsel since they had sought employment through impersonation the appointment was ab initio void and so the petitioners are not entitled to any protection under the I.D. Act.

5. A perusal of the records available in the petition does not throw any light on the fact that an enquiry was made before the respondents arrived at the conclusion that the petitioners had sought employment by impersonation. On the face ^{3/4 of} it therefore the action taken by the respondents appears to be against the principles of natural justice.

6. We therefore direct that the respondents should carry out a detailed enquiry in regard to the allegations about impersonation. The petitioners will after that, be given an opportunity to explain their case and then only a final decision may be arrived at. This should be done within a period of three months from the date of receipt of these orders. In case it is found that the allegation of impersonation is not proved the petitioners will be entitled to be continued in service as Casual Labour with consequential benefits. If the charge against them is established and the petitioners are not satisfied with the final order they will be at liberty to move this Tribunal by a fresh application.

7. This writ petition is disposed of in the above terms. We leave the parties to bear their own costs.


Member (J)


Member (A)

Dated: 16th February, 1989.
brc/