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Court No.1

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

T.A.No. 1800 of 1987 (T)

Khem Raj & others           ...           ...           Applicants.

Vs.

Union of India & others       ...           Respondents.

Hon'ble Ajay Johri       A.M.

Hon'ble G.S. Sharma       J.M.

Heard the learned counsel for the parties .

In this writ petition which has been received on transfer under section 29 of the Administrative Tribunal Act XIII of 1985 from the Hon'ble High Court, Allahabad, the applicants who were working as Casual Labourers challenge an order, terminating their services, issued on 18.2.85 and have sought the relief that the respondents should not retrench the petitioners without compliance of the provisions of the ID Act. The petitioner's case is that they have been working under the IOW Central Railway at Jhansi for a long time and they have in any case worked for more than 240 days continuously in the employment of the respondents and therefore they are entitled to all the benefits of continuous service within the meaning of the same in the ID Act 1947. It has also been alleged by the applicants that there was demonstration i.e. Dharna and the reasons given in the termination order of the petitioners that there is shrinkage therefore their services are not required, was not correct because the termination was a measure

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of punishment for the Dharna. In the petition, the petitioners have also claimed benefits under section 25 N of the ID Act in addition to the benefits of the under section 25 F of the said Act.

2. In this case by an order issued by the Hon'ble High Court of judicature at Allahabad on 15.3.85 the operation of the order dated 19.2.85 was stayed untill further orders and the stay was confirmed on 19.9.85. In the reply to the petition, the respondents have stated that the petitioners were employed purely as Casual Labour and except petitioners 8,11,14 and 17, the other petitioners have been incontinuous service and they are entitled to the benefits under section 25 F of the ID Act. They have denied the allegations made by the petitioners that the ICW was trying to extract money from them. According to the respondents the petitioners were not in regular service. Notices were served on the petitioners under section 25 F indicating the date of retrenchment. They have also opposed the request for the application of section 25 N of the ID Act on the ground that the petitioners are not working in a workshop. The respondents have admitted that the practice of 'last come first go' is adopted at the time of retrenchments and therefore the petitioner's allegation that they are being retrenched and juniors are being kept is not correct.

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3. As far as the engagement of Casual Labour is concerned the rules and law on the subject are very clear. Casual Labourers are engaged against requirement of Casual nature. After continuing to work for more than 120 days they attain a temporary status and if they work continuously for 240 days in 12 calendar months, they qualify for protection under the ID Act. It has been admitted by the respondents that except some of the petitioners the others have been working continuously and in any case, after the stay was granted by the Hon'ble High Court they are still in job, and, therefore, they must have also attained the status to get protection under the ID Act. In this writ petition the relief sought is for a direction to be issued to respondents not to terminate the services of the petitioners in pursuance of the notice of 18.2.85 & without complying with the provisions of section 25 F and 25 N of the ID Act.

4. We have heard the learned counsel for the petitioners. On the facts of the case we feel that this petition can be disposed of finally by issue of suitable directive and accordingly we dispose it of with the following directions :-

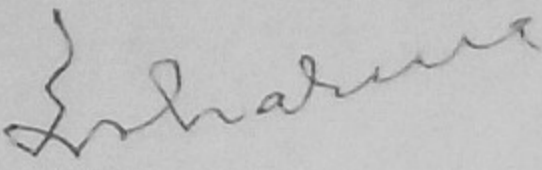
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1. That the respondents will be at liberty to retrench the petitioner and retrenchment, if any, as may become necessary because of lack of work etc. will be made after following proper procedure under the relevant rules and

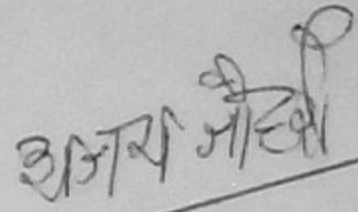
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the Industrial Dispute Act 1947<sup>20</sup> as applicable to the petitioners.

2. That the petitioners will be considered for regularisation under the scheme introduced by the railway in consequence of the direction given by the Hon'ble Supreme Court in Indrapal Yadav Vs. Union of India (SLR 1985 II page 248) if they are so eligible. Parties will bear their own costs.

  
MEMBER (J).

  
MEMBER (A).

Dated: December 14, 1988.

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