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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD

Registration O.A. No.43 of 1987

Jamuna Prasad Applicant

Versus

P.W.I.(Special), Dehradun ... Respondent

Hon.S.Zaheer Hasan, V.C.

Hon. Ajay Johri, A.M.

(By. Hon.S.Zaheer Hasan, V.C.)

This is an application under Section 19
of the Administrative Tribunals Act XIII of 1985.

2. The case of the applicant Jamuna Prasad is that on 14.1.1980 he joined under P.W.I Haridwar who used to extract Rs. 20/- per month from him. Due to fear of unemployment he was compelled to accept this deduction. He asked for photo and address of the applicant and made him put his thumb impression on blank card. After some time he returned the card with improper and irregular entry and the applicant was engaged as a Gangman at Dehradun on the basis of the said card. In April, 1986 the D.R.M. Moradabad visited the work sites and on his direction a seniority list was prepared in which the applicant's name was not mentioned. On that score he sent an application dated 8.4.1986 to D.R.M. Moradabad. Instead of

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doing justice the respondent sent a show cause notice dated 10/13.5.86 with the allegation that the Labour Card was forged and he should explain the same. On receipt of this notice the applicant sent a reply on 16.5.86 in which he stated that whatever he has written in his representation dated 8.4.86 was the reply against the show cause notice. As such the show cause notice is bad. So the respondent be directed not to terminate the services of the applicant and the termination order if any may be cancelled.

2. The defence is that the applicant brought Casual Labour Card No.130685 and on that basis he was appointed as Casual Labour on 1.8.1978. At the time of appointment the applicant never raised the question that he never worked prior to 1.8.1978 and that his Labour Card was forged. No seniority list was prepared as alleged. Only those persons could be appointed as Casual Labour who had worked prior to 1.4.78. The applicant had not worked prior to 1.4.78 and the entry with ~~such~~ Labour Card is forged. The applicant's services were not terminated but he himself absented w.e.f. 31.5.86. So his name was struck off from the roll. The show cause notice is dated 10/13.5.86 and according to the respondent the applicant was struck off from the roll because he absented himself w.e.f. 31.5.86. There was no legal justification

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for removing the applicant simply on the ground that he absented himself from 31.5.86. No show cause notice was issued neither any explanation was called for for absenting himself from duty. No order has been produced before us showing that his name was struck off from the roll w.e.f. 31.5.86. It does not appear that after issuing notice dated 10/13.5.86 the respondent took the step. On the other hand soon thereafter the services of the applicant were terminated w.e.f. 31.5.86 as alleged in the written statement. So this removal was clearly bad in law and we would have interfered with the same but the circumstances do not permit the same. In those days a Casual Labour could be appointed provided he had worked as such before 1.4.78. The applicant produced a Labour Card showing that he had worked from 6.6.78 and on that basis he was given employment on 14.1.1980. The applicant himself admits that he had not worked before 14.1.1980. In the representation dated 8.4.86 we find the same admission and in the explanation dated 16.5.86 the admission contained in representation dated 8.4.86 was repeated. So the applicant has never worked before 14.1.1980 and it was falsely shown in the Labour Card that he had worked from 6.6.78. So on the basis of the forged Labour Card he obtained appointment. A show cause notice was issued in this connection and he admitted the charge. In normal course the respondent should have passed an order saying that the allegations in show cause notice were admitted so the applicant's services were terminated. Instead doing ~~what justice~~ ^{what justice}

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the respondent terminated his service on the ground that he absented himself from 31.5.86. In view of the conduct of the applicant and the circumstances mentioned above we do not find it just and proper to interfere with removal of the applicant from service. The application is dismissed with costs on parties.

Member (A)

Vice Chairman

Dated the 21 Jan., 1988

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