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CENTRAL ADMINISTRATIVE TRIBUNAL ALIAHABAD.

Registration(OA) no. 558 of 1987

Chhotey Lal Applicant.

Versus

General Manager, N.E.Railway
Gorakhpur Respondents.

Hon'ble D.S.Misra, A.M.
Hon'ble G.S.Sharma, JM.

(Delivered by Hon'ble D.S.Misra)

In this application under Section 19 of the A.T. Act XIII of 1985, the applicant has sought the quashing of the order dated 14.5.1987 issued by the Divisional Railway Manager(P) Izatnagar(respondent no.2) and the order dated 25.5.1987 issued by the Assistant Engineer South) N.E.Railway terminating the services of the applicant.

2. The applicant's case is that he has been working as casual labourer for the last several years and has been granted temporary status as well as C.P.C.scale; that his services have been terminated without following the procedure prescribed by para 2302 of the Indian Railway Establishment Manual and provisions of section 25-F of the Industrial Disputes Act.

3. In reply the respondents have stated that the applicant was engaged as casual labour on the basis of a certificate to the effect that he had worked as casual labour prior to 1.1.1981; that a verification was made from the original record and it was found

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that the applicant had never worked under Permanent Way Inspector(Construction) N.E.Railway Sonepur as claimed by him(copy annexures 1 and 2); that the applicant had not worked as casual labour prior to 1.1.1981 and employment was obtained by him by producing a forged document and by concealing the material facts; that the records of ~~all~~ casual labourers are scrutinised thoroughly in the screening before empanelment for regular absorption; that during such verification and screening, the casual labour record of the applicant has been found to be forged and accordingly he has been black listed by D.R.M.(P) Izatnagar for using unfair means and defrauding the railway administration while obtaining employment; that the services of the applicant has been terminated with one month's pay in lieu of notice; that an amount of Rs.861.84 ,i.e., one month's pay in lieu of notice has been deposited back as the applicant did not receive the payment; that annexure-7 to the application also appears to be forged and is denied and that the applicant has not exhausted any other departmental remedy available to him.

4. We have heard the arguments of the learned counsel for the parties and perused the documents on record. Learned counsel for the applicant does not contest the verification report (annexure CA 2) regarding the claim made by the applicant that he had worked under P.W.I., N.E.Railway Sonepur during various periods prior to 1.1.1981. It is thus established that the applicant had obtained employment as casual labour after 1.1.1981 by producing forged ~~and~~

documents. The respondents have stated that for regular absorption of casual labour, the records of all casual labour employed after 1.1.1981 were scrutinised. During such scrutiny, it was established that the applicant had not worked under the Railway Administration as casual labour prior to 1.1.1981 and had obtained the employment by producing forged documents of having worked prior to 1.1.1981. We have considered the matter and we are of the opinion that there has been no discrimination against the applicant and it is established that the applicant had obtained employment by fraudulent means and was holding the post of casual labour on ad hoc basis in a purely temporary capacity. He has not acquired any right to continue on that post. Regarding the termination of the services of the applicant, learned counsel for the applicant contends that he was entitled for retrenchment benefit under Section 25-F of the Industrial Disputes Act. This contention of the applicant is contested by the counsel for the respondents, who has contended that the services of the applicant were terminated under Rule 149 of the Railway Establishment Code and he was offered one month's pay in lieu of notice. We have considered the matter and we are of the opinion that as the services of the applicant were not terminated by way of retrenchment due to non-availability of work but as termination simplicitor, he is not entitled to benefit under Section 25 F of the Industrial Disputes Act. The services of the applicant have also not been terminated for any misconduct during his employment as casual labour, and therefore, it was not necessary for the respondents to hold any disciplinary inquiry, or to issue any showcause notice to the

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applicant. If the applicant felt aggrieved, he could have preferred a representation and produced documentary evidence to substantiate his claim that he had worked under the respondents prior to 1.1.1981. It appears that the applicant did not prefer any representation because he has no evidence in support of his contention ^{for} that he had worked with the respondents prior to 1.1.1980.

For the reasons mentioned above, we are of the opinion that there is no merit in the claim and the same is rejected without any order as to costs.

Sharma
J.M.

B.M.
A.M.

JS/ 17.8.88