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CENTRAL ADMINISTRATIVE TRIBUNAL ALIAHABAD BENCH.

O.A.No.563 of 1987.

Jageshwar Dayal Applicant

Versus

D.R.M., N.E. Railway, Gorakhpur..... Respondents.

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, A.M.

(BY Hon'ble Mr. A.B. GORTHI, MEMBER (A))

This is an application from Jageshwar Dayal Porter of of the N.E. Railway seeking the quashing of order of removal dated 13.4.87, passed by the Station Master, Kampit Road, North Eastern Railway-respondent no.2 and for a direction to confirm the applicant in the regular employment of railways.

2. The applicant joined N.E. Railway as Porter on 1.1.77 on daily wages. He worked ^{for} 156 days upto 1.12.77 and again for a period of 157 days during 1981. Again in the year 1983, the applicant was appointed as a temporary hand in the pay scale of Rd 196-232 and was posted as Lampman at Kasganj. The applicant worked continuously for 615 days as Lampman. Vide order dated 22.4.85, the applicant was transferred from Kasganj to Kampit as Lampman in the same pay scale. During the course of his employment, he was also given certain other service benefits, such as fress passes, PTO and bonus. As he was required to be screened for regularisation, he obtained a certificate from the Station Master, Kampit Road showing the period of employment from January, 1981 and his continuous employment of 618 days as a Lampman at Kasganj. The applicant appeared for the screening and qualified in the

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test held for the post of Pointsman in December, 1985. Notwithstanding the aforesaid facts, his services were abruptly terminated by telegraphic-memo dated 13.4.87.

3. The respondents refuted the claim of the applicant and stated that the impugned order of termination, though conveyed telegraphically by the Station Master, Kampit Road, was in fact issued from the Office of D.R.M.(P) Izzat Nagar. The main ground taken by the respondents is that the claim of the applicant that he worked for 156 days in 1977 or that he had worked for 157 days between 1977 and 1981 is false. Since the applicant attempted to be regularised in railway service on the basis of false information furnished by him, his services were terminated. The learned counsel for the applicant reiterated that the applicant made no false claim of his past services and that the respondents' contention that the statement of the applicant was false is due to the fact that because the relevant record could not be traced by the respondents, ^{and that the said} This contention cannot be accepted.

4. What is obvious in this case is that the applicant was a temporary employee of N.E. Railways before his services were terminated and that his services were terminated for no other reason than the alleged false statement made by the applicant with regard to his past services. In other words, his service were

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terminated for mis-conduct. It is well settled that where there is an allegation of charge of mis-conduct against a railway employee and his services were terminated on that ground, it amounts to imposition of penalty by way of disciplinary action. Where the applicant has acquired a temporary status, he becomes subject of ^{the} D & A Rules. Accordingly, the services can be terminated on the ground of mis-conduct, only after ^a proper enquiry by way of disciplinary proceedings.

5. In the result, the impugned order of termination of services is set aside. The applicant shall be reinstated in service and shall be deemed to be continuing in service. He shall, however, not be entitled to any back wages from the date of his removal from the services till 1.6.92. The respondents shall re-instate the applicant as expeditiously as possible but the applicant becomes entitled to salary w.e.f. 1.6.92. It will be open for the respondents to initiate action under D. & A Rules for the alleged mis-conduct of the applicant.

6. The application is allowed in the above terms without any order as to costs.

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MEMBER (A)

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VICE CHAIRMAN

DATED : MAY 14, 1992

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