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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

1. O.A.No.696 of 1987.

Ram Buzarath Yadav & othersApplicants.

Versus

The General Manager, N.E.Railway, Gorakhpur
& othersRespondent.

2. O.A.No. 697 of 1987

Jang BahadurApplicant

Versus

The General Manager, N.E.Railway, &
othersRespondents.

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

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

(By Hon'ble Mr.Justice U.C.Privastava, VC

As both the aforesaid cases are identical and common question of law is involved in both the cases, we are disposing of both these cases together by a common judgment.

2. The applicants filed the above applications praying that the order by which their services were terminated on various dates may be quashed and it may be declared that the applicants are the regular employees of the N.E. Railway in accordance with the decision of the Supreme Court in Indrapal Yadav's case and suitable relief may be granted.

3. The applicants in both these cases claimed to have been engaged by the Railway Administration first as Casual Labourer and thereafter having temporary status for last several years. They have worked for more than 240 days and even by operation of law they acquired temporary

status for which no declaration is needed and various other benefits which are given to a temporary employee like privilege pass, bonus etc. were also extended to them. A circular was issued by the Divisional Railway Manager(Personnel) on 30.9.85 regarding regularisation of casual labourers. The applicants' contention is that the said Circular is in contravention of the Scheme of the Railway Ministry in this regard which has been made part of the judgment of the Supreme Court of India in the Case of Inderpal Yadav Vs. Union of India & others' reported in 1985 5LR 138. Thereafter the cases for regularisation were considered but the applicants were ^{not} regularised and their services were terminated. Thus, they had no option but to approach this Tribunal. According to the applicants, their termination from service amounts to retrenchment and this retrenchment cannot be done without complying with the provisions of Industrial Disputes Act, particularly Section 25-F which provides for giving one month's notice to the applicant intimating the reasons for retrenchment and as such the termination order is void. Some of the applicants have claimed the benefits on the ground that they are members of scheduled caste but have not been given the benefit of scheduled caste quota.

4. Learned counsel for the respondents Shri G.C.Bhattacharya opposing the contention of the applicant contended that so far as Inderpal Yadav's case is concerned, the same does not apply to this case as it was the case in respect of project labourers and the applicants were not of project side and consequently they cannot claim the benefit of the scheme which has been framed by

the Railway Administration in pursuance of the directions given by the Hon'ble Supreme Court in Inderpal Yadav's case. The contention appears to be without substance. It has further been contended by the learned counsel on the basis of the pleadings that the plea taken by the applicants that they worked for more than 240 days is not correct and the matter had been referred to the vigilance but it has not been brought on record that what is the result of vigilance enquiry. The facts stated above indicates that the applicants worked for more than 240 days, that is why they have attained temporary status for which no declaration is needed. As the applicants had attained the temporary status and they were found fit for regularisation, their services could not have been terminated. In case work was available, they should have been allowed to continue in service in preference to their juniors but it appears that this aspect was not considered by the respondents at all and the applicants were shown unfit and were thrown out of service. Even no work was available, the applicants' name were to be entered in the register of such retrenched employees and they were to give priority whenever work was available and incidently that too, it appears, was not done. As such the applications deserve to be allowed and the applicants should be considered for regularisation again. Accordingly, the applications are allowed and the respondents are directed to re-employ the applicants in accordance with the seniority as and when work is

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available. In case their juniors are allowed to work, the applicants may also be provided job and may also be considered for regularisation. Let it be done within a period of three months from the date of communication of this order. No order as to costs. /

MEMBER (A) /

VICE CHAIRMAN.

DATED: MAY 13, 1992

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