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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
Registration O.A. NO. 840 of 1987

Radhey Shyam

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Applicant

Vs.

Union of India & Others

Respondents

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

Hon'ble Mr. A.B. Gorthi, Member(A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed as Casual Labour on 15.10.75 under P.W.I., Northern Railway, Allahabad and he worked with casual breaks from time to time till 7.3.83. The working days of the applicant were verified and checked up by the then P.W.I. and the same were shown in Casual Labour Card no. 137594. Similarly placed other Gangman who worked with him have now been benefitted and have been given revised pay scale in the year 1984 after verifying their working days, but the applicant has been thrown out from services ^{for a} for punishment. In the year 1983 he applied for the post of Khalasi which was vacant and he was appointed as Khalasi on 3.6.83 after his past working days were verified and since then he was continuously working upto 8.12.86 without any break, in Electric Traction Department, Allahabad. Thus according to the applicant he had worked for more than 240 days against the clear vacancy and he was also subjected to screening test on 6.1.84 and he was duly declared successful and was placed at serial no. 74 of the list. After his appointment on 3.6.83 he was subjected to transfer from one station to another station and from one unit to another unit. While he was working at Aligarh he was transferred to Mirzapur vide order dated 11.7.86 he was verbally ~~be~~ spared on 9.12.86, but when he reported to duty at Mirzapur on

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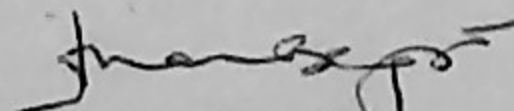
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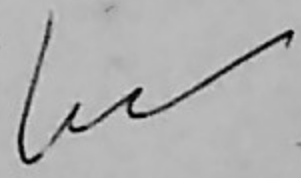
11.12.86, he was not allowed to ^{join} duty and was kept for waiting for orders. No salary was paid to him ^{from} onwards. The applicant made representation after representations but he was refused posting. Ultimately the applicant approached this Tribunal. The Tribunal dismissed the claim petition on the ground that the applicant had efficacious alternative remedy. The applicant also filed an appeal before the Department which was also dismissed on 14.8.87. Thereafter the applicant approached this Tribunal praying that as a matter of fact he should have been regularised, and he has not been regularised and he was engaged after verification of all his previous working days including the period in question as contained in the usual Labour Card but his services have been terminated on the ground that ofcourse that it was a forged Labour Card .

2. The respondents have filed the counter affidavit, and from the counter affidavit it appears that the applicant has managed ^{his} in ^{his} absorption ⁱⁿ different units on the forged cards from time to time and this working does not amount to transfer of the applicant from one unit to another and as such the direction of the Railway Board the rules in this behalf are not at all attractive, and the applicant on the basis of forged card was not entitled to any absorption or regularisation in service. Thus the applicant was not allowed to join duty and his services were terminated on the ground that he had utilised the bogus Labour Card in order to get service, and the so called verification was no verification as the verification was based on the forged card and in which the entries were not correct. If that was so

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the applicant who entered into service on the basis of such card which did not contained the correct entries, the action of termination from service was penal in nature. ^{For} Taking such a penal action obviously the applicant should have been associated and opportunity of hearing should have been given to him, but that was not done, and whatever the report at the time of screening was got by the respondents they utilised it, But the applicant should have been associated. Accordingly the action of respondents is not justified, and the respondents are directed to associate the applicant with an enquiry regarding the use of the bogus card. Let an enquiry be completed within 3 months. In case if it is found that the entries in card are correct, the applicant will be re-instated back in service immediately after the expiry of the said period with continuity in service though he will not be entitled for the wages for the entire period but will be treated to be continuing in service, and in case he is cleared of his enquiry and found that he is fit for absorption and the card did not contain the bogus entries, the applicant will be treated to be regular employee. Let the applicant ^{shall} appear before the Officer concerned on 2nd January 1992, and thereafter the enquiry will be completed within a period of 2 months. If the enquiry will not be completed within 2 months thereafter despite cooperation of the applicant, the applicant will be deemed to be continuing in service. Copy of the order may be issued latest by 20th December. ^{all}


Member (A)


Vice-Chairman.

29th November, 1991, Alld.

(sph)