(A4/1) (5)

Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 832 of 1987

Kashi Ram v. DRM, Central Rly., Jhansi & others

Connected with

Registration (O.A.) No. 844 of 1987.

Bhajan Lal v. DRM, Central Rly., Jhansi & others.

Connected with

Registration (O.A.) No. 1214 of 1987.

Gauri Shankar v. DRM, Central Rly., Jhansi & others.

Connected with

Registration (O.A.) No. 831 of 1987.

Ganesh Kewat v. DRM, Central Rly., Jhansi & others.

Connected with

Registration (O.A.) No. 834 of 1987

Kamal Kishore Chaurasia v. DRM, Central Rly., Jhansi & others.

Connected with

Registration (O.A.) No. 835 of 1987.

Sukh Lal v. DRM, Central Rly., Jhansi & others.

Connected with

Registration (O.A.) No. 1213 of 1987.

Suraj Pal v. DRM, Central Rly., Jhansi & others.

Hon'ble Justice K. Nath, V.C.
Hon'ble K.J. Raman, A.M.

These seven cases raise the same question of law and facts and, therefore, are disposed of by this judgment. The applicants were appointed as substitute Khalasis sometime between 1983 and December, 1986. Notices were issued to them in December, 1986 to show-cause why their services may not be terminated within 15 days of receipt of the notice. The reason stated in these notices is that they had been given employment on the basis of their Casual Labour Card

purporting to have been issued sometime in or about the year 1977, but the enquiries revealed that the Casual Labour Cards produced by the applicants at the time of appointment were forged and false. The applicants sent replies to the show-cause notice in which they had said, inter alia, that there was no forgery in the Service Cards in question and that the allegation that the Cards being forged is false and fabricated. The applicants' case is that subsequent to the replies furnished by them no further enquiry was held and, therefore, they had no opportunity of defending the allegation of illegal entry into the service on the basis of forged Casual Labour Card. It is further said that no final orders of termination were passed, but the applicants were just ceased to work.

2. The respondents filed counter affidavits in some of these cases and did not file counter affidavits in the rest. The reply in one of the counter affidavits (O.A. No.1214 of 1987) is that the reply had not been furnished within the time stipulated and that the applicant himself had been absenting since 21.2.1986 and, therefore, the services were terminated. It is further said that it was found that the Casual Labour Card was forged and false.

3. There is nothing to show that any further enquiry was held after receipt of the reply of the applicants. The delay, if any, in submitting the reply could not exempt the respondents from their obligation to hold a proper enquiry in accordance with the principles of natural justice.

4. The learned counsel for the respondents said that the applicants should have approached the superior authorities of the Department and that the applications are barred by time. In view of the fact that no proper enquiry was held in accordance with the principles of natural justice, it would not be appropriate to reject the claim simply because that superior departmental authorities had not been approached. It is also not shown that there is any statutory provision for making any representation or appeal in matters like these to superior authorities.

5. The defence of limitation is misconceived because we find that the applications have been filed within one year from the date of the show-cause notice and the supposed period of termination of employment.

6. In view of above, the termination of the services of the applicants is set aside and the respondents are directed to reinstate the applicants within one month from the date of receipt of the certified copy of this judgment. The applicants shall be paid wages from the date of reinstatement; back wages shall not be paid. It will be open to the respondents to hold a proper enquiry into the allegation of the applicants' Casual Labour Card being false, forged or bogus, after giving reasonable opportunity to the applicants. These applications are accordingly disposed of. There will be no order as to costs.

A copy of this judgment may be placed with all the connected files.

MEMBER (A). VICE-CHAIRMAN.

Dated: February 7, 1990.

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(SHARAD KUMAR)
SECTION OFFICER
Central Administrative Tribunal
Allahabad.