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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 971 of 1987

Brij Mohan Lal and others Applicants
Versus
Union of India and Others Respondents

CORAM:

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

Hon'ble Mr. K. Obayya, Member(A)

The applicants who were casual labours have approached this Tribunal praying that a declaration be made in favour of the applicants to the effect that they are entitled to receive the arrears of back salary from 18.1.83 to 11.9.83 and usual D.A quarter allowance, bonus for the year 1983-84 and 84-85, increments from 1983, seniority and promotion to higher posts as compared to their juniors and the respondents be directed to calculate the said amount.

2. The applicants were appointed as a casual labour and were working as cleaner/Khalasi from May 1979 in the Loco Shed Northern Railway Bareilly. They were thrown out of job on 18.1.83. Against this action of removal/retrenchment, they have

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filed a petition before the Hon'ble Supreme Court which was allowed on 31.5.85 following the earlier judgment of Hon'ble Supreme Court in cases of Indrapal Yadav and Prabhat Singh dated 18.4.85 and 22.4.85. The interim order dated 22.7.83 in pursuance of which they were taken back on duty from 11.9.83 and thus they were actually out of job from 18.1.83 to 10.9.83 and after final order passed by the Hon'ble Supreme Court they were treated as substitutes but no specific order regarding their past services were passed. Despite number of representations and they ~~were~~ ultimately took the matter to the Railway Board. In the meantime their juniors were promoted and confirmed and that is why the applicants have approached this Tribunal. After decision of the Supre Court's case on framing of the scheme the applicants were put back on duty and the reinstatement order was passed.

2. The respondents have denied the claim of the applicant on the ground that because of reversion in January 1983, the office had to pass order for discharge and discontinue of non panel staff and accordingly the applicants were discontinued w.e.f. 18.1.83. They were again engaged from 3.9.83 as per interim order passed by the Hon'ble Supreme Court and these casual labours can be

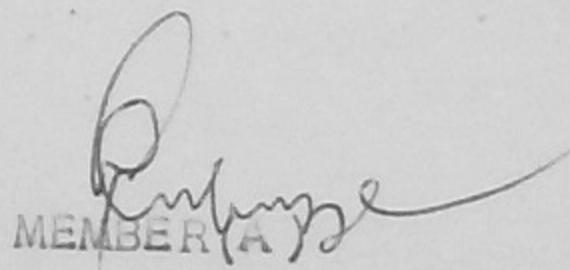
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appointed after completing 120 days and the applicants have not completed 120 days and as such they could not be appointed as substitutes. The Supreme Court found that the termination of the casual labour was in accordance with the rule and that is why the application was allowed. Obviously, the applicants will be treated to be continuing in service but it is not correct to state that they have not worked for 120 days. Each of them had worked for 120 days. They were working since before and they continued to work as such. The applicants may not be entitled to the wages for the period they were out of work, ^{on} / the principle no work no pay but they will be entitled to all other benefits and continuity.

3. With these observations, this application stand disposed off finally. No order as to the costs.


MEMBER (A)


VICE CHAIRMAN

Dated: 4th December, 1992

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