

A/1

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

Original Application No. 1334 of 1988

THIS THE 16TH DAY OF JANUARY, 1995

HON. MR. JUSTICE B.C. SAKSENA, V.C.

HON. MR. S.DAS GUPTA, MEMBER (A)

Hakim Singh, aged about 35 years, s/o
Late Sudan Singh, r/o village Vishunipur
P.O. Jainpura, Distt. Etah

.... Applicant

BY ADVOCATE SHRI ANAND KUMAR

Versus

Union of India and Ors

.... Respondents

BY ADVOCATE SHRI PRASHANT MATHUR

ORDER (ORAL)

JUSTICE B.C. SAKSENA, V.C.

We have heard the learned counsels for the parties. The brief facts are that the applicant was engaged as a casual labour in the Northern Railway w.e.f. 31.8.84. ⁸ He continued till 5.6.88. From 31.8.84 to 5.10.84 he worked continuously thereafter, ^{during} 6.11.84 to 5.6.85 he has worked continuously. The applicant thus completed 120 days of working and on and after 5.6.85 he acquired temporary status. On acquiring such temporary status, the applicant was subject to D.A under the Railway Servants Discipline and Appeal Rules.

2. From the facts in the present case, it appears that the applicant, as alleged by the respondents, was unauthorisedly absent for a period of one year four months. Admittedly, also no charge sheet was issued nor any disciplinary proceedings were instituted against him for his alleged unauthorised absence.

3. The applicant through this O.A has claimed that

the

...p2

BoR

the respondents be directed to treat the period between 25.5.86 to 6.10.86 as medical leave for which the medical certificates had been furnished. The applicant further seeks the relief for a direction for his reinstatement w.e.f 7.10.1986.

4. In view of the admitted position that the applicant had attained a temporary status and admittedly no disciplinary proceedings had been held against him, the respondents had no authority to disengage the applicant and not permit him to resume his duties. ~~On~~ ^{After} consideration of the equities involved in the case we allow the O.A. We direct the respondents to reinstate the applicant in service and pass necessary orders within three months from the date a ~~copy~~ certified copy of this order is furnished to the respondents by the applicant. We, however, make it clear that the applicant will not be entitled to any back wages for the period he has remained out of job. On his reinstatement he will have the status of a casual labourer who had acquired temporary status and to be considered for regular absorption as per his seniority position on the basis of the number of days of his working. The ^{gap} ~~internum~~ between the last date of working of the applicant and till the date he is reinstated will not count for purposes of seniority.

5. Shri Prashant Mathur learned counsel for the respondents submitted that it may be left open to the respondents to hold a disciplinary enquiry now against the applicant for his alleged act of unauthorised absence.

A2/m

:: 3 ::

The period in question is of the year 1985 and in our opinion, therefore it would not be proper to direct or to leave it open to the respondents at this stage to hold any disciplinary enquiry against the applicant for the alleged unauthorised absence. It would not be equitable also considering the observations made ~~above~~ in Part 4 above. for

6. With the observations and directions given hereinabove, and to that extent only the O.A. is allowed.

No orders as to costs.

W
Member (A)

B. S. Akers
Vice Chairman

Dated: 16th January, 1995