

(A)
(b)

Court No. 1.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD.

Registration (O.A.) No. 210 of 1988

Behari Lal Applicant.

Versus

Assistant Engineer, N.Rly., Allahabad
and others Respondents.

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

This application, under Section 19 of the Administrative Tribunals Act, 1985, is for issue of a direction to the respondents to permit the applicant to join duties on the post of Gangman and to treat him continuously to be on duty with effect from 11.2.1988.

2. Admittedly, the applicant was working as a Casual Gangman when he received a show-cause notice dated 19.11.1987 (Annexure 'B' to the application) stating that his name did not find place in the record of the PWI, Meja Road, Allahabad and, therefore, he had not actually worked under the PWI and was taken unauthorised benefit of railway employment on the basis of forged Casual Labour Card. He was required to show-cause as to why his services may not be terminated.

3. It appears that the applicant was expected to be given employment as a Casual Labour, if he had worked as a Casual Gangman prior to 1.8.1978. The periods, during which he had been working, was expected to be recorded in the Casual Labour Card and also in the records of the PWI, Meja Road, Allahabad.

4. The case of the applicant is that while he had worked originally under the PWI, Meja Road, Allahabad, since 22.2.1977 till 13.8.1978, he was properly in employment on the basis of the Casual Labour Card when he received the show-cause notice dated 19.11.1987. The applicant claims to have sent his reply dated

9/2

25.11.1987 (Annexure 'C') to the competent authority.

5. According to the respondents, however, the alleged reply was never received by them and that since the records of the PWI, Meja Road, Allahabad, did not indicate that the applicant had worked under the PWI, Meja Road, earlier, his Casual Labour Card was considered to be forged and, therefore, he was required to be discharged with effect from 25.1.1988. According to the applicant, he actually worked upto 10.2.1988 after which he was not permitted to work. This application was filed on 24.2.1988.

6. The main question for consideration, in the matter of the applicant's employment as Casual Gangman, would be whether the applicant had actually worked as a Casual Gangman prior to 1.8.1978. It was for this reason that the show-cause notice was issued and reply having not been received by the respondents the applicant was discharged from employment.

7. It appears to us that the applicant's case of his having sent a reply deserves to be accepted because* there is no reason for him not to have sent a reply. At the same time the case of the respondents that they did not receive a reply cannot be said to be palpably erroneous. There was a slip somewhere between despatch of the reply by the applicant and the disposal of the show-cause notice by the respondents. We think that, in the circumstances, the matter deserves to be re-examined by the competent authority.

8. In view of above, the decision to discharge the applicant is set aside and the applicant is directed to be reinstated within a period of one month from the date of receipt of a certified copy of this judgment. It will be open to the respondents to hold an enquiry into the question of the applicant's having worked as a Casual Gangman prior to 1.8.1978 under the PWI, Meja Road, Allahabad, and of the genuineness of the applicant's Casual Labour Card. The applicant will be given reasonable opportunity of participating in

(P.M.)
3
2

-: 3 :-

the enquiry proceedings and appropriate orders will be passed in the matter by the competent authority thereafter. The applicant shall be paid his wages from the date of his reinstatement; he will not get any back wages. The application is accordingly allowed. There will be no order as to costs.

(Signature)

~~MEMBER (A).~~

(Signature)

VICE-CHAIRMAN.

Dated: February 6, 1990.

PG.