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CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH.

(6)

Registration O.A. No. 303 of 1988

Moti Lal Petitioner.

versus

Divisional Railway Manager
Central Railway Jhansi Respondents.

Hon. 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 joined the Railways on 24.9.1984 as Casual Labour and he continued to work with broken period and his services were terminated orally on 30.3.1986, despite of his un-interrupted service since 24.9.1984.

The applicant's claim was that he was entitled to higher pay scale as he has worked more than 120 days and attained the Temporary Status and under para-2512 of the Railway Establishment Manual, he was entitled to a particular pay-scale but instead of given the same, his services have been terminated without given any notice and without any written order. The respondents have contested the claim of the applicant and have taken the plea of jurisdiction which has been decided against them and has not taken any other plea. The respondents have filed a written statement in which they have stated that the applicant was unauthorisedly absent from duty from 21.2.1986 and as he was unauthorisedly absent, his services came to an end. According to them, the applicant was engaged on 29.9.1984 as Casual Labour (Safai Wala) on daily rate of wages and that his case for grant of temporary status could not be considered and cannot be granted as he failed to produce the service card. Now as the applicant

absented himself from duty, his name was struck off

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from the record. So far as the grant of temporary status is concerned, one acquires it under the provisions of Railway Establishment Manual by operation of law. The applicant continuously worked for one and half years and by operation of law, he acquired temporary status. He having acquired temporary status, his services could not have been terminated without holding any enquiry in the matter. Although, the applicant has denied that he never absented himself but as a matter of fact, he was not allowed to do the duty. Whatever may be the position, he having acquired the temporary status, and after taking formal proceedings against him, his services could have been terminated, but the same was not done. Accordingly, the termination order of the applicant is violative of Art. 311 of the Constitution of India. The application deserves to be allowed and the termination order dated 30.3.1986 is quashed. However, it will open from the the respondents to take formal departmental proceedings against the applicant and to pass any order in accordance with law. As the applicant has not worked ever since the date of his termination, he will not be entitled to any salary from that date upto 2 months from this date. The applicant will be reinstated in service within 2 months from today. In case, he will not be formally reinstated, he will be entitled for the salary from the date of his re-instatement. The application is disposed of finally with the above observations. Parties to bear their own costs.

Shri Basappa
Member (A)

Dated: 16.1.1992
(n.u.)

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Vice-Chairman