

Open Court

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD

Original Application No: 553 of 1988

This 8th Day of November, 1994

Vinod Kumar S/O Shri Har Prasad
aged about 28 years R/O Prem Deo Sharma,
Mohalla Kanoon Goyan Pahasu, Distt. Bulandshahar.

.... Applicant.

By Advocate Shri R.R.Shukla
Shri J.K.Saxena

Versus

Union of India & Ors.

.... Respondents.

By Advocate Shri P.Mathur

Coram:

Hon'ble Mr. T.L.Verma, Member-J
Hon'ble Mr. S.Dayal, Member-A

O R D E R

Hon'ble Mr. T.L.Verma, Member-J

None for the applicant. Shri P.Mathur for the respondents. From the perusal of the ordersheet of different dates, it appears that the applicant had left taking interest in this case since long. The last time steps were taken on behalf of the applicant was on 3.1.1991. Thereafter, none appeared for the applicant on the dates fixed for hearing in this case. No request has been made today also, for adjournment, on behalf of the applicant. We therefore, proceed to dispose of this case after hearing the arguments of the learned counsel for the respondent and perusing the application filed.

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The case of the applicant as made out in the Original Application is that he was appointed as Casual Labour in 1978-79 and was placed under P.W.I. Mathura Cantt.

Thereafter he was appointed on 30.6.1984 and was engaged as Khalasi.

He was given C.P. scale. The services of the applicant however

were terminated on the basis of forged order passed by P.W.I. on

16.11.1986 by not giving further engagement to him. He, filed

a representation against his dis-engagement. As the representation

filed by him ^{did} ~~has~~ not yielded any

result, this application has been filed for issuing a direction to

the respondents to declare the

applicant as continuing in service disbursement as Khalasi and also for / pay

and allowances for the period from

date of his dis-engagement to the date

of his reinstatement.

2. The respondents have filed Counter Affidavit alleging that the applicant had obtained his appointment as Khalasi w.e.f. 30.6.1984 on the basis of forged Casual Labour Card for the period 16.9.1978, 15.10.1978, 16.12.1978, 15.1.1979 and 20.1.1979 to 15.2.1979. He was therefore, served with a notice to show cause as to why his services should not be terminated for that reason. The applicant, it is stated, instead of filing show cause has filed this O.A. with the reliefs stated above.

3. We have heard Shri P.Mathur, learned counsel for the respondents and perused the record. We find that the applicant was served with notice to furnish details of his working for the period from 16.9.1978 to 15.2.1979. Show cause notice ~~was~~ served upon the applicant may be seen at Annexure A-1 and CA-1. When the applicant did not file any show cause, another show cause notice dated 9.9.1986 was served upon him. There is nothing on the record to show whether the respondents have taken any decision on the matter after issuing the show cause ~~taken~~ notice (Annexure CA-1 and CA-2).

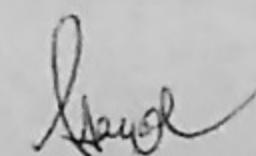
4. The applicant having acquired temporary status after working continuously for 120 days, was entitled to the benefits as are available to temporary Railway servant. That being so, the respondents were, in our opinion justified in issuing show cause notice before deciding whether the applicant ~~was~~ debarred from being employed on the ground that he had obtained employment on the basis of forged document. That being so, this application was premature at the time, it was filed. The applicant, however, cannot be denied of his right ^{of} being regularised after screening without recording a finding in the inquiry

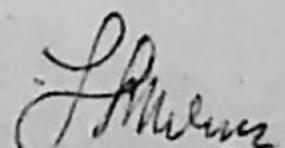
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initiated against him that he had obtained the appointment w.e.f. 30.6.1984 on the basis of forged document. There is nothing before us as may show that such an inquiry has been concluded and the applicant has been found to have obtained employment on the basis of the forged document. Therefore, the applicant has a right to be heard before the decision in that behalf is taken by the respondents.

5. In view of the discussions made, we find that this application is premature and as such, cannot be ~~allowed~~ maintained. This application is accordingly, dismissed. The respondents, however, are directed to complete the inquiry initiated by issuing show cause notice (Annexure CA1 & CA-2) and record a proper finding with regard to the allegation that the applicant has obtained an employment on the basis of the forged document after giving adequate opportunity to the applicant to defend his claim. In case, he is absolved of the charge, then he should be considered for being re-engaged according to law.


Member-A


Member-B

/jw/