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CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH

Original Application No. 672 of 1988

Allahabad this the 1st day of March 1995

Hon'ble Mr. T.L. Verma, Member(J)
Hon'ble Mr. K. Muthukumar, Member(A)

Jai Singh S/o Dhan Singh R/o F 198 Rani Laxmi
Bai Nagar Railway Colony, working as MRCL Khallasi
at Foreman PQRS, Jhansi.

Applicant.

By Advocate Shri A.K. Dawe

Versus

1. The Union of India through its secretary, Railway Board, Rail Bhawan, New Delhi.
2. The Divisional Railway Manager, Central Railway, Jhansi.

Respondents.

By Advocate Shri A.K. Gaur

O R D E R

BY Hon'ble Mr. K. Muthukumar, Member(A)

The applicant was a casual labourer under the Foreman/PQRS/TM, Jhansi of the Central Railway. He claims in the application that by virtue of his completion of 120 days of continuous service, he had acquired temporary status and was entitled to the privileges available under the relevant provisions of Chapters XXXII and XXV of the Indian Railway Establishment Manual and Chapter III of the Railway Establishment Code. His grievance is that he had been removed from service w.e.f. 03.12.1986 without assigning any reason and without following the procedures under the provisions of the Disciplinary and Appeal

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Rules 1968 for the railway servant. He, therefore, prays that the action of the respondents in removing him from service w.e.f. 03.12.1986 orally be quashed and he should be deemed to be continuing in service.

2. The respondents, in resisting the application, have averred that the respondents was recruited as casual labourer on project work and was brought on 1/30 rate^{of} pay scale from 14.7.86, on completion of 180 days service and only on completion of 360 days of continuous service, would be entitled to be given monthly rate of pay. It has, however, been averred by the respondents that he absented himself from work without any intimation w.e.f. 14.12.1986 and was shown to have left by the sign~~in~~ in charge Foreman (PQRS) Jhansi w.e.f. 14.12.1986. The respondents have averred that the applicant was not removed by the Railway Administration, and no proceeding under Disciplinary and Appeal Rules, 1968 was required to be initiated in this case. His representation dated 05.1.1987 stated to have been sent, was also not received by the respondents nor he had approached the recruiting authority in this regard.

3. We have heard the learned counsel for the parties and perused the record.

4. The applicant states that he was removed from service orally w.e.f. 03.12.1986 but, has ~~not~~ filed his application on 26.5.1988 ~~on~~

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after and therefore, *prima facie*, the application is time barred and no reasons are adduced for the delay and it is, therefore, liable to be dismissed on this ground alone. However, we condone the small delay in filing this application.

5. From the Casual Labour certificate dated 03.10.1986 annexed as Annexure-2 to the application, the period of service is indicated as 21.11.1985 to 13.7.1986, (C/Casual cook) and was stated to be still working till the date of certificate. The respondents also admit to the applicant having completed 180 days of working and the fact of his having been brought on 1/30 rate of pay. In the casual labour card filed by the applicant in the rejoinder-affidavit (Casual Card no. 168689), it is indicated that the service under F.O.(PQRS), Jhansi ^{was} from 14.7.86 to 01.12.1986 as 1/30th Cook and there is a remark "left service-long absentee". It is also seen that he was again re-engaged from 17.5.1988 to 28.7.1988 in the Hot Weather season under the Station Superintendent, Central Railway. The applicant has not shown any evidence of his service from 01.12.1986 to 16.5.1988 and has averred that he was removed from service orally w.e.f. 03.12.1986. From this it is evident that the applicant, though might have ~~been~~ served for more than 180 days and was put on 1/30 rate of pay,

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did not have the requisite service for being treated on monthly rate of pay. His subsequent engagement under Station Superintendent for hot weather season is not explained, although the entries are shown in the same labour card. It is also clear from the averments made by the respondents that the applicant had worked on project and, therefore, needed 360 days continuous service for being eligible for permanent absorption. The applicant has not shown any reason or evidence to establish that he had not abandoned the service under F.O./PQRS. But, the respondents also have not shown whether any notice have been sent to him to resume his duty and that in the event of abandonment of service, the applicant would be liable to termination of his service. In this, condition, we are persuaded by the decision cited by the learned counsel for the applicant in Beer Singh V. Union of India & ors. AILT 1990 (II) CAT 13.

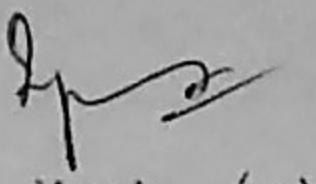
6. In view of this, we are of the opinion that it would suffice if, we direct the respondents to re-consider the case of the applicant and take such action as may be deemed appropriate after issuing a notice calling upon him to resume duty and also to hold an inquiry into his long absence after 02.12.1986 and take such action as may be deemed appropriate in the circumstances. We

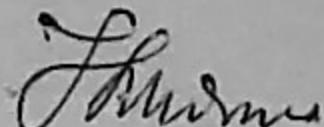
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direct accordingly.

7. The application is disposed of with the above direction. No order as to costs.


Member (A)


Member (J)

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