

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

Dated :Allahabad this the 26th day of Feb.1996.

CORAM : - Hon. Mr. S. Das Gupta, Member-A
Hon. Mr. T. L. Verma, Member-J

ORIGINAL APPLICATION NO. 808 of 1988
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Langi Prasad son of Sri Ram Sajwan,
R/o. Village Gadra Post Attara, District Banda.
M.R.C.L.Under P.W.I. CKTD, KARVI.

...Applicant.

(THROUGH ADVOCATE SHRI P.S.JKHARE & SRI H.P. CHAKRAVORTI)

Versus

/. Divisional Railway Manager,
Jhansi

.....Respondent.

(THROUGH ADVOCATE SHRI A.K.GAUR)

O_R_D_E_R(Oral)

(BY HON. MR. S. DAS GUPTA-Member-A)

The applicant is aggrieved by his dis-engagement on the ground that his Casual Labour Card was forged. He has sought relief of quashing of notice dated 18.5.1987 by which the applicant was given 15 days' time to give a reply. He has also prayed that he may be deemed to be continued in service with full back wages and other consequential benefits.

2. The applicant's case is that he was appointed as Casual Labour initially on 25.11.1982. He continued upto

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18.5.1987 in broken periods. After completion of 120 days, ~~on~~ the applicant ~~had~~ ^{was} also awarded temporary status and thus was entitled to all rights and privileges available to temporary employees in terms of ~~Rs~~ relevant provisions in the Indian Railway Establishment Manual. Despite this, the impugned notice was issued asking to show cause within 15 days why his services shall not be terminated on the ground that he had obtained employment by forged certificate. He had submitted his explanation but, his services were terminated without passing any formal order and he was not being paid any salary since 19.5.1987.

3. The respondents have filed a counter-reply in which it has been stated that Casual Labour Service Card of the applicant was found to be forged and therefore, under the rule, 15 days notice was given to the applicant to show cause. It is stated that the service card of the applicant was verified and it was found that it was fabricated for the purposes of getting service in the Railway Department. It is further stated that the service card of the applicant does not bear the **sanction** of the General Manager and that after 18.12.1980 all the service card must bear the sanction of General Manager. Also the name of the issuing authority has wrongly been shown on the service Card.

4. The applicant has not filed any rejoinder-affidavit. When the case was called out none responded for the applicant. We therefore, proceeded to hear the learned counsel for the respondents and carefully went through the pleadings on record.

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5. It is clear from the averments that the applicant has put in considerable period of service from 25.11.1982 to 14 May, 1987 and his services were terminated on the ground that he had obtained employment by means of forged Casual Labour Card. The respondents have not disputed the fact that the applicant had obtained temporary status after putting in service for more than 180 days. It is clearly laid down in the relevant paragraph of the Indian Railway Establishment Manual that a casual labour having completed a specified period of service is entitled to be granted temporary status. As the applicant had put in the required number of days and of service, whether or not he was conferred with the temporary status, he has to be deemed to have acquired such status. One of the benefits which the casual labourers are entitled under the aforesaid provisions of the Indian Railway Establishment Manual is that in case their services are terminated on the basis of the mis-conduct, they are entitled to be proceeded against, under Railway Servants (Discipline & Appeal) Rules. Actually, this procedure outlined in Discipline and Appeals Rules was not followed. The applicant was only given 15 days notice to show cause. After he had given a reply to the Show -Cause-Notice, his services were terminated without holding confronted enquiry as envisaged in the Discipline and Appeal Rules. The termination of the service of the applicant is therefore, violative of principle of natural justice and also the rules framed by the respondents themselves.

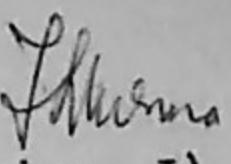
6. In view of the foregoing, we hold that termination of service of the applicant was illegal. We therefore, direct that the applicant be reinstated in service forthwith. The respondents shall be at liberty to proceed afresh.

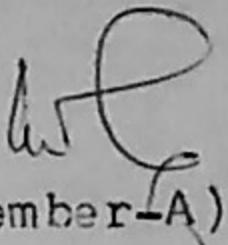
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against the applicant in accordance with the procedure out-lined in the Railway Servants (Discipline & Appeal) Rules. The applicant will be treated to ~~be~~ ^{have} continued in service during the intervening period for ~~the~~ ^{all} purposes except that he shall not be paid ~~the~~ back wages. The application is disposed of with the above direction. The parties to bear their own costs.


(Member-J)


(Member-A)

Dt /- Allahabad The 26th February, 1996.

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