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Central Administrative Tribunal, Allahabad.

Registration O.A.No. 922 of 1988

Asha Ram ... Applicant

Vs.

Union of India &amp; 3 others ... Respondents.

Hon.D.S.Misra,AM  
Hon.G.S.Sharma,JM

(By Hon.G.S.Sharma,JM)

In this Original Application u/s.19 of the Administrative Tribunals Act XIII of 1985, the Applicant <sup>who</sup> had worked as casual Gangman from 31.8.1978 to 28.12.1984 with certain gaps has prayed for a declaration that the termination of his service is illegal and he should be reinstated with all back wages.

2. It appears from Annexure A that the Applicant had started working as a casual Gangman from 31.8.78 in the Northern Railway and he worked as such upto 28.12.1984 with some periodical gaps. In any case, he appeared to have acquired the status of temporary railway servant on his working for more than 120 days as a casual labour under the rules. The allegation of the Applicant is that he was not permitted to work after 28.12.1984 and his services could not be dispensed with without complying with the mandatory provisions of Para 2511 of the Indian Railway Establishment Manual. The claim of the Applicant regarding his removal or retrenchment from service w.e.f. 29.12.1984, however, does not appear to be within time. so far as the question of his reinstatement is concerned, as the present application was filed by him on 22.2.1988 after a period of about 4 years. It, however, appears from

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the documents furnished by the Applicant that there was some mistake on the part of the immediate officer of the Applicant in discharging him from service. The Applicant seems to have been discharged on the ground that his initial appointment was made after 1.8.1978, the date from which a ban was imposed on the employment of the casual labourers. In this connection, the DRM Allahabad had issued a letter to the Divisional Engineer Northern Railway, Tundla on 10.5.1985, copy annexure B, stating that the case of the Applicant did not fall within the meaning of the 'ban' and as such, the order of the PWI in discharging him is irregular. He had further opined that the Applicant may be restored to service with all benefits of screening and regularisation of service after empanelment provided the assertions made in the representation are correct. The DRM wrote another letter dated 6.11.1985, copy annexure C, to the Divisional Engineer Tundla inviting his attention to his earlier letter dated 10.5.1985 for restoring the services of the Applicant with all the benefits of screening and regularization. The Applicant was unfortunately not given duty despite these two letters of the DRM and he invited the attention of the Asstt. Engineer, N.Railway Tundla vide his letter, copy annexure F, bringing his plight to his notice. The Asstt. Engineer seems to have sent a letter to the Chief PWI Mainpuri expressing his dissatisfaction in this respect and in reply the CPWI vide his letter dated 9.11.1987 copy annexure G, had stated that the appointment of the Applicant could not be considered on account of the consideration of the cases of the casual labourers appointed before 1.8.1978 and all the seniors to the Applicants were absorbed by that time and the case

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of the Applicant is now to be taken up for screening and absorption. This letter has been treated by the Applicant as an impugned order and <sup>the</sup> has prayed for quashing the same. In our opinion, there is nothing in this letter which can be said against the interest of the Applicant so as to treat it as an impugned order sought to be set aside.

3. Despite various correspondence made by the Railway Authorities, the Applicant was not given any job till the present petition was filed and when the notice of this case was sent to the Respondents, they did not come forward to contest this case and no reply has been filed on their behalf in this case despite giving sufficient opportunity to them. We have given our anxious consideration to the various allegations made by the Applicant in his petition and we are of the view that there has been some unexplained delay on the part of the Respondents in not considering the case of the Applicant for screening and absorption on his turn in the light of the directions issued by the DRM Allahabad to the Divisional Engineer Tundla.

4. We accordingly direct the Respondents to consider the case of the Applicant for the restoration of his service with benefit of screening and regularisation of service in the light of the directions contained in the letters dated 10.5.85 and 6.11.85 of the Divisional Railway Manager, Allahabad to the Divisional Engineer, Northern Railway, Tundla within a period of 3 months from the date of the receipt of this order. There will be no order as to costs.

*Subarao*  
MEMBER (J)Dated: July 4, 1989  
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MEMBER (A)