

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration O.A.No.121 of 1988

Maksood

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Applicant

Vs.

Union of India & Others

Respondents

Hon'ble Mr. Justice U.C. Srivastava, V.C.

Hon'ble Mr. A.B. Gorthi, Member (A)

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

As the pleadings are complete in this case we are going to dispose of this case with the consent of the parties at the admission stage. Admit.

2. The applicant was appointed as Casual Khalasi initially on 21.5.1976 and he worked upto 27.6.1977. Thereafter he again worked from 7.5.79 to 16.5.1981. According to the applicant he worked with effect from 13.1.1986 to 14.3.1986 under the P.W.I., S.P.C.S.W. and thereafter worked from 1.3.86 to 31.5.86 at Bridge No.61 under I.W.S.P.C.D.D.N. and thereafter he has not been given any work, nor any salary been paid to him. Although the applicant made even written application for giving him the duty, but no action ^{to the same} was taken and even though those who were juniors to the applicant or those who were taken as Casual Labour after the applicant were allowed to work but the applicant has been thrown out in this manner without any proceedings or charge against him.

3. The respondents have resisted the claim of the applicant and have admitted that the applicant worked from 7.5.79 to 16.8.81 but with broken periods. But according to them after 1981 the applicant left the job and did not maintain any contact with Inspector of Works, Hardwar or

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Dehradun or anywhere else and as such there was no question of taking work from him. No records have been produced by the Railway Administration, although efforts have been made by the learned counsel for the respondents but the Railway Administration did not prefer his ^{own} counsel for producing the records and the only presumption can be withdrawn that they deliberately are not producing the records ^{if} as the records ~~will~~ be produced they same may go against them. The applicant has given the detail of ^{the authority} under which ^{he} ~~worked~~. It was for the Railway Administration to find out the detail and contrary but they have not done the same. It appears that averments that were made by the Railway Administration that after 1981 the applicant himself left the job does not appear to be correct, otherwise the applicant would not have made representation against the same. In the year 1987 of course he applied for Medical Leave this does not indicate that he left the job himself in the year 1981. The irresistible conclusion appears to be that the applicant worked in the year 1986 also and thereafter he was not asked to work. As the applicant had worked ^{for} more than 120 days he attained a particular status and his services could not have been terminated in this manner. Obviously when the work was still available and the juniors were retained in services the applicant should have also been allowed to work as such. Accordingly this application is allowed and the respondents are directed to take back the applicant in service in case some persons who were juniors to him have been allowed to work and are working. Let it be done within a period of 2 months from the date of communication of this order. The applicant may be deemed to be continuing in service. But the applicant will not be entitled to any back wages as he has not worked


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during this period. The application is allowed as above.
No order as to costs.


Member(A)


Vice-Chairman.

8th May, 1992, Alld.

(sph)