

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

Allahabad this the 25th day of November 1994.

Original Application no. 122 of 1988

Hon'ble Mr. T.L. Verma, Judicial Member
Hon'ble Mr. S. Dayal, Administrative Member.

Harpal, S/O Shri Bhajjar, A/A 31 Years, Casual Khalasi,
O/o Rail Path Nirakshak, Haridwar (Chandosi).

.... Applicant

C/A Shri M.K. Updyayaya

Versus

1. Union of India through General Manager, Northern Railway Baroda House, New Delhi.
2. D.R.M. Northern Railway, Muradabad.
3. Assistant Engineer, Northern Railway, Roorkee.

.... Respondents

C/R Shri A.K. Gaur.

O R D E R

Hon'ble Mr. S. Dayal, Member-A

The applicant through an application under section 19 of the Administrative Tribunal Act, 1985, seeks the [redacted] direction of the Tribunal to the respondents to assign work to the applicant with facilities attached to the post with salary from 01.06.86, C.P.C scale onwards with and the cost of application.

2. The grounds for seeking relief are stated as entitlement to temporary status and C.P.C. scale because

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he had put in more than 120 days of continuous work, that there was no valid removal or termination order after enquiry, that no opportunity for hearing was given before the removal thereby violating, Article 311(2), that his juniors are working in the railways.

3. The applicant claims to have worked as casual khalasi in the office of Inspector of Construction from 14.07.76 to 02.10.80, in the office of Inspector of Works Haridwar from 15.01.86 to 14.03.86 and in the office of Special Inspector of Works Kumbh Mela from 01.05.86 to 31.05.86. His service is shown in his casual labour card no. 6906. He was not allowed to work from 01.06.86 onwards. The applicant applied on 06.06.86, 01.08.86, 01.11.86 and 18.03.87 for being given duty but received no response. N.R.M.U. also wrote to the respondents to give duty to the applicant vide their letter dated 24.05.87.

4. The respondents have stated in their reply that the application is time-barred. They have said that the period of works of the applicant as verified from the records of Inspector of Works was 06.11.79 to 02.10.80 under I.O.W. Kumbh Mela and from 03.05.86 to 31.05.86 under the Inspector of Works Haridwar. They have said that Photo copy of the Casual Labour Service Card produced by the applicant shows that it was forged. The applicant is said to have been able to work in the office of the Inspector of Works, Kumbh Mela, Haridwar from 06.11.79 to 02.10.80 because his casual labour card contained bogus entries from 14.07.76 to 11.10.76 and the verification of genuine and non-genuine service card had not been completed till then. The entries on page no 6 are not consistent with entries on page no. 5. The

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respondents have denied having received any representation from the applicant but have said that the applicant simply stopped coming for work and did not come for about two years.

5. The learned counsel for applicant Shri M.K. Updhayaya was heard and he cited (1989) 9 ATC 158 Krishnamurthy vs Union of India as in Pari materia with this case. The learned counsel for the respondent Shri A.K. Gaur was heard and he mentioned that the applicant worked in broken periods.

6. As regards the point of limitation, the Tribunal had condoned the delay and admitted the application on a written petition of the applicant vide its order dated 20.05.88.

7. It is quite clear from the facts of the case that the applicant was allowed to work from 06.11.79 to 02.10.80 which is a period of 330 days because the veracity of entries in the casual labour card were being Verified. It is stated that entries from 14.07.76 to 11.10.76 on page 4 of the casual labour card were forged as were the entries from 15.01.86 to 14.03.86 and 01.05.86 to 31.05.86 on page 5 of the card. It is stated that page 6 of the card was actually a part of some other card and the applicant had wrongly shown it as a part of his casual labour card. It is clear from the pleadings that the applicant had worked for more than 120 days continuously in 1980. It is also clear from paragraph 6 of the reply of the respondents that the name of the applicant was on Live casual Labour Register on 31.05.86 and that it was removed because of the applicant's absence for more than

two years. It is not at all clear from the respondents reply as to when the investigation for forgery was started and when was the forgery established. The investigation was probably initiated in 1979 when he was given the job and it is strange that it could not be completed for as long as about eleven months inspite of the fact that the previous service in 1976 shown by the applicant was in Haridwar itself where he was working from 06.11.79 onwards. It is clear from the reply that no action was taken against the applicant for forgery.

8. The applicant has alleged that he was denied work from 01.06.86 onwards. The respondents have said that the applicant abandoned the work and his name was removed from the civil Casual labour Register because of his continued absence for more than two years. The allegation of continued absence of more than two years is highly improbable because the applicant was admitted to be on duty on 31.05.86 and this application was filed by the applicant in Jaunary 88 which is little over one and a half years and a notice was issued to the respondents to show cause why the application should not be admitted on 09.03.88, well before completion of two years.

9. The ratio of the case cited by the counsel for the applicant is that the respondents have to establish in cases like this that the applicant abandoned service by showing that the notice was given to the applicant calling upon him to resume his duty and that enquiry was held before the services were terminated on this ground. In this case also the respondents have ^{not} shown that such action was taken.

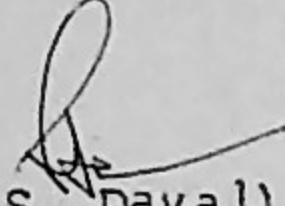
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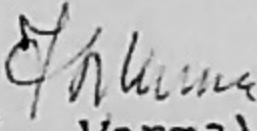
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10. We, therefore, direct the respondents to reengage the applicant as a causal workman granted temporary status within one month of the receipt of copy of this order and restore his name on the live Causal Labour Register. He shall be deemed to be in continuous service from 01.06.86 for purpose of seniority and all other benefits granted to his juniors whose names remained on the Live Casual Register ~~.....~~ after 31.05.86. He shall, however, not be entitled to any arrears of pay from 01.06.86 till reengagement because he had not actually worked during this period and this period shall be treated as leave having no adverse effect on his seniority.

11. There shall be no order as to costs.


(S. Dayal)
Member-A


(T.L. Verma)
Member-J

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