

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
ALLAHABAD BENCH, ALLAHABAD.

~~C.A. NO.~~
T.A. NO. 68/89

~~109~~

DATE OF DECISION 14-5-92

Union of India & others PETITIONER

Shri Prashant Mishra Advocate for the Petitioner(s)

Versus

Mani Narayan RESPONDENT

Shri A S Lal Advocate for the Respondent(s)

CORAM :

The Hon'ble Mr. Justice U.C. Sinha, A.M.

The Hon'ble Mr. A.B. Corthi, A.M.

1. Whether Reporters of local papers may be allowed to see the judgment ? Y
2. To be referred to the Reporter or not ? Y
3. Whether their Lordships wish to see the fair copy of the Judgment ? ✓
4. Whether to be circulated to all other Benches ? N

GHANSHYAM

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH.

T.A.No.68 of 1989.

Union of India & another ...Defendants/Applicants.

Versus

Hari NarainPlaintiff/Respondent.

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

Hon'ble Mr. A.B. Gorthi, A.M.

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

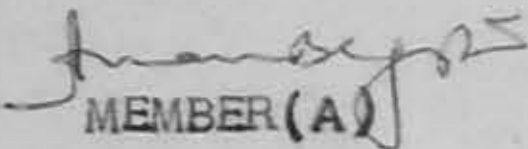
This is a transferred case under section 29 of the Administrative Tribunals Act.

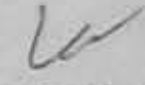
2. The respondent filed a suit in the Court of Munsif I, Gorakhpur praying that it may be declared that he is entitled for the difference of wages for the period from 19.11.78 to 18.11.82 i.e. for the period when he was placed under suspension but on revocation of suspension the wages were not paid to him. According to the applicant, he was posted as Hamel in the Parcel Office, Gorakhpur on 19.11.78 and since then he continued to work and was wrongly involved in a theft case, that is why he was placed under suspension. The criminal case had been decided in his favour on 25.1.82 and he was acquitted. No appeal or revision against the same was filed. After acquittal, the respondent reported to the Divisional Railway Magistrate for duty and to arrange payment of his due wages for the entire period when he was placed under suspension till he was given duty but the Railway Administration did not take any disciplinary action against him. They did not make the said payments despite several representations.

3. The defendants/applicant resisted the claim of the plaintiff/respondent and stated that the suit is barred under section 22 of the Payment of Wages Act. It was pleaded that the respondent/plaintiff was only appointed as Substitute Hamel on 22.9.82 and prior to it, he was engaged from time to time as Casual Labourer and was never in the regular service of railways. The plaintiff submitted an unattested copy of judgment dated 25.1.82 from the Railway Magistrate, Gorakhpur on which it came to light that he was prosecuted for a criminal offence under section 3 of R.P. Act. As the applicant was not in regular service prior to 22.9.82, the question of his placing under suspension or initiating the so-called action under D.A.R. does not arise. The Railway Administration was not at all aware of the fact of his being involved in a criminal case otherwise he would not have been called for screening test and consequently it is not open for him to raise such issue. The plaintiff in his own application which was submitted to the Divisional Railway Manager(P), N.E. Railway, Lucknow in February, 1982 stated that he was not in employment of the defendant/applicant since last three years, yet he is raising this plea.

4. The learned Munsif came to the conclusion that the plaintiff/respondent was in a regular service of railways prior to September 22, 1982 and as such he is entitled to get wages for the said period. The Munsif further concluded that the plaintiff/respondent, who was employed as casual labourer had worked for more than three

years and consequently he attained temporary status and was screened before 1978 itself. The plaintiff/respondent undoubtedly attained temporary status and he was screened before 1978 but he was not/^aregular employee¹ of the railways. Merely because he attained temporary status, it would not mean that he became a regular employee. Moreover, the plaintiff/respondent's main case is that he was placed ^{under} suspension but no evidence, whatsoever, was produced by him ^{that} ^{he} ^{was} ^{ever} placed under suspension. Accordingly, this application deserves to be allowed and the judgment and order, passed by the learned Munsif is set aside. No order as to costs.


MEMBER(A)


VICE CHAIRMAN.

DATED: MAY 14, 1992

(ug)