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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

O.A. NO. 717 of 1989

1. Fauj Singh Applicant

Versus

Union of India & Others Respondents

-X-X-X-X

O.A. No. 718 of 1989

2. Tej Singh Applicant

Versus

Union of India & Others Respondents

-X-X-X-X-

O.A. No. 721 of 1989

3. Chandra Pal Applicant

Versus

Union of India & Others Respondents

-X-X-X-X

O.A. No. 762 of 1989

4. Shiv Ram Applicant

Versus

Union of India & others Respondents

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

Hon'ble Mr. S.N. Prasad, Member(J)

(By Hon'ble Mr. S.N. Prasad, J.M.)

Since in the aforesaid 4 cases identical nature of facts and law are involved, these are being decided by this common judgement. All the aforesaid cases have been filed under section 19 of the Administrative Tribunals Act, 1985 by above applicants with the prayer for regularisation of their services and after their screening test and medical test the respondents be directed to re-instate the applicants

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with immediate effect and to pay back wages to the applicants from 1.8.1989 to the date of their re-instatement.

2. Briefly stated the facts of the aforementioned case No. 717 of 1989 inter-alia, are that the applicant was posted as Khalasi on 22.1.1972 under P.W.I. Hathras Road and since then in different spells he worked upto 31.7.1989 satisfactorily. The applicant was issued a provisional service card wherein all the days ^{where} and under whom he worked used ~~to be~~ written and the provisional service card issued to that effect is annexure A-1 which shows that in all the applicants has worked for 1033 days under the station Superintendent, Mathura Cant upto 31.7.1989. On 31.7.1989 the ^{Station} superintendent Mathura Cant terminated the services of the applicant without any rhyme or reason and termination order is annexure A-7, the impugned termination order is quite illegal and against the rules ^{and} of principles of natural justice, in as much as since the applicant has worked more than 120 days continuously and had acquired the status of temporary government servant, the service of the applicant can not be terminated without giving show-cause notice and without holding disciplinary enquiry and as such the impugned order be quashed and the relief sought for be granted.

3. The facts of the above mentioned O.A. No. 718 of 1989, briefly stated inter-alia, are that the applicant was posted for the first time as Khalasi on 17.2.1979 under P.W.I., Hathras Road and he had worked more than 120 days and had acquired temporary status of government servant, but without rhyme or reason

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his services were terminated vide impugned order dated 31.7.1989. The rest of the allegations of this applicant Tej Singh are almost identical with that of the above mentioned applicant Sri Fauj Singh.

4. Briefly stated the facts of the above O.A. No. 721 of 1989, inter-alia, are that for the first time applicant the was posted as Khalasi on 23.2.1978 under P.W.I., ~~Mathura Road~~, Kasganj and after certain intervals he has been working upto 31.7.1989 ^{and} had worked ^{for} more than 120 days continuously and has acquired temporary status of government servant, but without any rhyme or reason his services were terminated. The rest of the allegations of this applicant Sri Chandra Pal are almost identical with that of the above mentioned applicant ^{~ ~~the~~ allegations of} Sri Fauj Singh.

5. Briefly, stated the facts of the aforesaid O.A. No. 762 of 1989, inter-alia, are that the applicant Shiv Raj was posted as Khalasi for the first time on 19.9.1978 under P.W.I. N.E. Railway, Mathura Cantt and after certain intervals he had been working upto 31st July, 1989 and had worked continuously for more than 120 days and has acquired temporary status of government servants but without any rhyme or reasons his services were terminated vide impugned order 31.7.89. The rest of the allegations of this applicant Sri Shivraj are almost identical with that of the above allegation of Sri Fauj Singh as mentioned above.

6. In all the above cases reply has been filed by the respondents wherein identical contentions have been set out by the respondent, the respondents have contended, inter-alia, that the above applicants were

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were given appointment against ^{sanctioned} ~~senior~~ post of seasonal watermen with specific conditions that the appointment made in ^{shall be purely seasonal} ~~April~~ Season and will not confer any right for giving any benefit for employment in Railway, and it has further been contended that the applicants if found to ~~be~~ have completed 120 days would be entitled if ~~pre~~ being considered for engagement in the next season on the basis of the seniority and requiring the applicants for medical fitness will not in any way be ~~mean~~ construed to ^{mean} that their medical fitness was required for giving them regular appointment but that was for the interest of the travelling passengers as they were working as seasonal watermen and the questions for screening test of the applicants do not arise as screening is done in those case ^{where} / appointment is to be given temporary or ^{on} / permanent basis and as such the applicants are not entitled for any relief.

7. We have heard the learned counsel for the parties and have ^{thoroughly} gone through the records of the case.

8. The learned counsel for the applicant, has argued that the impugned order dated 31.7.1989 ~~ixxxxxx~~ ~~xxxxxxx~~ whereby the service of the applicants were terminated is liable to be quashed as the same was issued without giving any show cause notice to the applicant, and without ^{any} affording / opportunity to the applicant, and as such the impugned order ^{being} / illegal and against the principles of natural justice should be quashed, and the relief sought for by the applicant, be granted to the applicants.

9. The learned counsel for the respondents

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has filed certified copy of judgement passed by this tribunal on 12.9.1991 in O.A. No. 763 of 1989 and has urged that since the aforesaid O.A. No. 763 of 1989 and the above mentioned cases have identical nature of facts and relevant law, and since the applicants have worked as seasonal watermen and since the seniority list of seasonal watermen is being maintained with the Railway Administrations, and since when needs for seasonal watermen arise they are being engaged according to their seniority in the list and since the nature of work on which the applicants used to be engaged happen to be of casual nature, the applicants can not in any way claim to have acquired temporary status and as such similar order be passed in these aforesaid 4 cases also as that of the aforesaid order dated 12.9.1991 passed in the aforesaid O.A. No. 763 of 1989. "Om Vir Singh Vs. Union of India and others"

9. We have given our anxious consideration to all the facts and circumstances of the case and we find that as per order dated 31.3.1989 passed by the D.R.M.(personnel), Izat Nagar, those seasonal watermen who have worked for more than 120 days have been given time scale of Rs. 750-940/- and as such they will be put in the same time scale of Rs. 750-940 in ensuing ^{1/2}season² when they are engaged as watermen, and rest of the watermen who have not worked for more than 120 days, they are being paid at the rate of daily wages, and from the scrutiny of the record, it is also borne-out that a seniority list is maintained by the Railway administration of such watermen. It is also noteworthy

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that the applicant Ombir Singh of said O.A. No. 763 of 1989 is the same person whose name finds place in the said order dated 31.3.1989.

10. Having considered all the facts and circumstances of the case we are inclined to pass the identical order as passed in the aforesaid O.A. No. 763 of 1989.

11. After considering all the aspects of the matter and keeping in view the circumstances of the case, we find that the maintenance of the list of the watermen according to their seniority and for their posting ^{and} as when necessity arises is a fair criteria.

12. Consequently, we find keeping in view the facts that a list of seasonal watermen is maintained with Railway Administration ^{and} as when needs of special watermen arise, they are being engaged according to their seniority in the list and they are being paid according to pay scale of Rs. 750-940/- after completing 120 days, and those who have not completed 120 days are paid at the rate of daily wages whenever they are engaged; and as such we find in the circumstances that the applicants can not have a grievance unless they are denied engagement as seasonal watermen, in accordance with their seniority in the list for seasonal watermen.

13. The applications of the applicants are disposed of as above. No order as to the costs.


Member (J)

16.4.92


Member (A)

Dated 16th April, 1992.

(RKA)