

RESERVED.

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

O.A. No./T.A. No. 1508/92

Date of decision 18/12/98

Dev Narain Sharma

Applicant(s)

C/A Sri N.N. Lahri, Advocate.

COUNSEL for the
Applicant(s)

Versus

Union of India and others.

Respondent(s)

Sri V.K. Goel, Advocate.

Counsel for the
Respondent(s)

C O R A M

Hon'ble Mr. S. Dayal. V.C./Member(A)

Hon'ble Mr. S.K. Agarwal, Member ()

1. Whether Reporters of local papers may be allowed
to see the judgment? No

2. To be referred to the Reporters or not? Yes

3. Whether their Lordship wish to see the fair Yes
copy of the judgment?

4. Whether to be circulated to all Benches? No


(SIGNATURE)

MANISH/

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

DATED: THIS THE 18th DAY OF December 1998

Coram:- Hon'ble Mr. S. Dayal, A.M.

Hon'ble Mr. S.K. Agarwal, J.M.

ORIGINAL APPLICATION No. 1508/92

Dev Narain Sharma son of Late Faujdar Sharma,
Resident of Vill. Nadauli, P.O. Ratanpura, District
Ballia at present Resident of C 33/205, Harinagar
Colony, Chandua, Chhittupur, Varanasi.

. . . Applicant.

C/A Sri N.N. Lahri, Advocate.

Versus

1. Union of India, through General Manager,
N.E. Railway, Gorakhpur.
2. Divisional Railway Manager, N.E. Railway,
Varanasi Division, Varanasi.
3. Signal Inspector, N.E. Railway, Varanasi.

. . . Respondents.

C/R Sri V.K. Goel, Advocate.

ORDER

BY HON'BLE MR. S.K. AGARWAL, MEMBER (J.)

In this original application, applicant makes a prayer to direct the respondents to take the petitioner on duty as Carpenter and to declare the denial of employment to the applicant as illegal and to pay salary for the period for which he was not allowed to work.



In brief facts of the case as stated by the applicant are that the applicant was engaged as Carpenter on 22.2.79 and he worked upto 22.4.90 by giving intermittent and illegal break but the applicant completed continuous working of more than 120 days. He was issued Service Card. It is stated that the applicant was not provided employment with effect from 23.4.90 whereas other similarly situated persons have been provided with the employment. The applicant was illegally denied the duty. No notice was given to him. The applicant was called upon the screening test to be held on 13.1.92 and 20.1.92 but it was cancelled without any notice to the applicant. The applicant acquired temporary status but before termination of his services, no notice was given to the applicant and he was not paid any compensation in lieu of notice which is a violation of Art. 15 and 16 of the Constitution of India and against the principles of natural justice. It is therefore prayed that respondents be directed to take the applicant on duty as Carpenter and to pay the salary for the period for which he was not allowed to work.

The counter was filed. It is admitted that the applicant was engaged as casual labour in Signal and Tel. Com. Department and on completion of continuous service of 120 days the applicant was granted temporary status but respondents have stated in the counter that mere confirmation of temporary status does not confer any right to the applicant for regularisation. No junior to the applicant has been retained in service. The applicant was engaged for specific period and no notice of termination was required in the facts and circumstances of the case. It is also admitted



that the name of the applicant was included in the list/panel but it was cancelled by the orders of General Manager North Eastern Railway and information was also sent to the applicant by registered post. Therefore it is stated by the respondents that the applicant is not entitled to any relief sought for.

Rejoinder was filed emphasising the facts that for termination of service of a casual who acquired temporary status one months prior notice or salary in lieu of notice is required to be paid under rules. It is also stated that the applicant did not receive any intimation of cancellation of screening test therefore the applicant is entitled to regularization as per rules. It is also stated that applicant did not receive any intimation of cancellation of screening test, therefore, the applicant is entitled to regularization as per rules.

Heard the learned lawyer for the applicant and learned lawyer for the respondents and perused the whole record.

It is admitted fact that applicant was engaged as Carpenter (Casual labour) on 22.2.79 and he worked for 2865 days till 22.4.90. It is also an admitted fact that the applicant was terminated from 23.4.90 because no work was available for the applicant.


The applicant is a daily rated casual labourer. It is settled law of the Supreme Court that a Casual Labourer has no right to a particular post. He is neither a temporary government servant nor a permanent government servant. The protection given by Article 311 does not apply to him. He is asked to do a job on a daily wage basis. His tenure is precarious. His continuance is dependent on the satisfaction of the

employer. A temporary status conferred on him by the Scheme only confers on him those rights which are spelt out in clause 5, namely, wages at the minimum of the scale for Group 'D' benefits of increments would be taken for pro rate wages annually; leave entitlement and certain other privileges. Thus the respondents are very much within the rights in terminating his services.

A daily rated casual labourer does not ipso-facto get a right of continuance. His right of continuance is subject to:-

1. If work is available.
2. If his performance and conduct are satisfactory.

In the instant case also the applicant has absolutely no right to a permanent post and the termination of the applicant is an order simplicitor which is not stigmatic. The Apex Court has also made it clear that temporary employee who is entitled to protection of Article 311 of the Constitution of India, a daily rated casual worker can not invoke the said provision. The termination of the applicant is termination simplicitor, therefore there is no need to give a show cause notice and consider his reply and then to issue of termination.

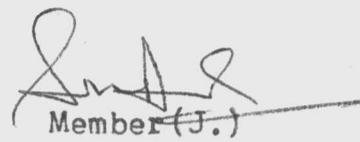
In the instant case although applicant acquired temporary status but his termination was an order simplicitor and this termination was done because no work was available with the respondents. Therefore the applicant is not entitled to any protection given under Article 311 of the Constitution of India.

The applicant also failed to establish the fact that any junior to the applicant was retained in service and services of the applicant were dispensed with



arbitrarily. Respondents have completely denied these allegations therefore we are unable to accept this contention of the applicant in view of the foregoing discussion we are of the considered view that the applicant failed to make out any case in his favour.

We therefore dismiss this Original application with no order as to cost.



Member (J.)



Member (A.)