

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD.

Allahabad this the 10th day of December 1996.

Original Application no. 1550 of 1992.

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

1. Prahlad, S/o Sri Prem Chandra, R/o Vill and Post Kharaga, Tah-Orai, Jalaun.
2. Indrasen, S/o Sri Jamuna Prasad, R/o Vill & Post Gigni, Tah-Rath, Hamirpur.
3. Krishna Pal S/o Sri Khochera, R/o Vill Boheta, Post-Dacour, Tah. Orai, Jalaun.
4. Raj Kumar, S/o Sri Ram Kishan, R/o Vill Rath, Tah-Orai, Jalaun.
5. Kailash, S/o Sri Ram Kishan, R/o Vill Rath, Tah Orai, Jalaun.
6. Suresh Chandra, S/o Ganga Din, R/o Sudkar, Post-Salabad, Jalaun.
7. Amar Chand, S/o Sri Tulsi Ram, R/o Vill & Post-Jaisari Kala, Tah. Orai, Jalaun.

All working as Casual Labourer and worked under the Permanent Ways Inspector, Orai, Jalaun under D.R.M. Jhansi.

Applicant No. 7 worked under PWI Chaitrakoot Dham, under D.R.M Jhansi also.

C/A Sri R.K. Rajan

... Applicants

Versus

1. Union of India, through Secretary, Ministry of Railway, Rail Bhawan, New Delhi.
2. General Manager, Central Railway, Bombay V.T.
3. Divisional Railway Manager, Jhansi.
4. Permanent Way Inspector, Orai, Jalaun under D.R.M., Jhansi.

... Respondents.

C/R Sri V.K. Goel

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ORDER

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

The applicant seeks the following reliefs:-

- i. A direction to the respondents to reengage the applicants on their jobs,
- ii. A direction to the respondents to grant temporary status to the respondents after verification of original records,
- iii. A grant of all benefits ad privileges including arrears of salary as temporary class IV employees from the date of the disengagement of applicants,
- iv. A direction to the respondents to place the names of the applicants in the Live Casual Register on the basis of their seniority.

2. The facts as narrated in the application and admitted in the counter reply are that the applicants were working as casual labours on project and open line work under I.O.W Orai, Supervised by D.R.M., Jhansi. The applicants have claimed that they have worked for period shown in Annexure A-1 and the admission of the respondents regarding the period of work of the applicant as given in para of the counter reply are shown alongside as follows:-

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Slno.	Name of the applicant	Period of work according to annexure 'A'	Period of work according to CA
1.	Raj Kumar	320 days (22.09.84 to 04.09.85)	91+ 341 days (3.1.82 to 18.3.82, 3.5.82 to 18.5.82, 28.9.84 to 4.9.85)
2.	Krishna Pal	210 days (25.2.85 to 3.11.85)	210 days (25.2.85 to 3.11.85)
3.	Indra Sen	76 days (3.9.85 to 18.11.85)	77 days (3.9.85 to 18.11.85)
4.	Prahlad	517 days (19.3.86 to 18.8.87)	25 days (23.2.84 to 18.3.84)
5.	Kailash	153 days (19.6.82 to 19.11.82)	139 days (3.5.82 to 18.9.82)
6.	Suresh Chandra	3 years (19.10.83 to 18.6.86)	151+664 (19.10.83 to 18.3.84 23.8.84 to 18.6.86)
7.	Amar Chandra	115 days (20.11.85 to 18.3.86)	779 days (24.4.82 to 18.9.82 19.11.82 to 18.4.83 2.11.83 to 18.2.84 22.8.84 to 9.8.85)

3. It can be seen from the above that both agree regarding completion of 120 days on open line work on the part of Sri Rajkumar, Sri Krishan Pal, Sri Suresh Chandra. The respondents agree that Sri Amar chand completed 115 days while the respondents credit him with 779 days of work in broken spells. This leaves Indra Sen, Prahlad and Kailash. Both agree that Sri Indra Sen had not completed qualifying period of 120 days for attaining temporary status on open line work as kailash had not attained the qualifying period of 180 days on project work. There is controversy about the period of service of Prahlad. While applicants have claimed in RA that Prahlad had worked for 116 days between 19.03.86 to 18.08.87 with PWI Orai and again under PWI Sumerpur for 181 days from 25.07.83 to 18.01.84 the responde

have conceded that he worked from 23.02.84 to 18.03.84. It is true that the name of the person who worked at Orai is mentioned as Prahilad and name of person who worked at Sumerpur as Prahlad Singh, the respondents may verify the claim of the applicant that these two are and the same person as claimed by the applicant.

4. The respondents in their counter reply have claimed that Krishan Pal's gang was transferred from Orai to Mahoba but Krishan Pal did not join at Mahoba. They have also stated that Sri Raj Kumar and Sri Suresh Chandra worked in broken spells and that Sri Amar Chand did not join after 09.08.85. Therefore, these three are not entitled for the benefit of M.R.C.L. Indra Sen, Prahilad and Kailash are said to have worked for period less than prescribed for conferment of M.R.C.L status. Therefore, they are not entitled. Sri Raj Kumar left the jobs of his own accord as did Kailash and Amar Chandra. The grounds raised by the respondents may explain why the applicants were not working in October 1992 when they filed this application but it does not absolve the respondents for considering them for enrolment in live Casual Register and offer them employment in their turn, and, in case their juniors have been reengaged from the date of reengagement of their juniors.

5. ^{Reason of} The respondents have relied on the voluntary desertion of service to deny temporary status and right of reengagement to the applicants. The respondents have not produced any documents to establish voluntary desertion. They seem to have simply relied on the fact that there has been a gap of six years or more between the dates of disengagement and the date of filing of the application as also

absence of any representation. The applicants have produced photocopies of newspaper clipping which show that there was a protracted agitation by leaders of casual labour in 1990-91 which was for reengagement of casual labour besides payment of arrears and provision of service cards which was being denied for four years. Besides the respondents have neither produced any documents to show nor averred that they had given notice to the applicants calling upon them to resume their duties and had held an enquiry before terminating the services on the ground of abandonment, which is necessary as per the ratio of the judgement dated 23.09.88 in G. Krishnamurthey Vs. Union of India and others (1989)9ATC 158. On the contrary the disengagement is alleged by the applicants to have been effected by means of oral orders. With the above set of facts, the applicants can not claim continuity of employment, back wages or immediate reengagement but they can not be denied their place on the Live Register for Casual Labour and offer of employment when their turn based on their seniority comes. If any casual labour junior to the applicants has been reengaged, the applicants shall have right to be reengaged from that day and would also be reengaged from that day and would also be entitled to back wages.

6. However, since averments relating to voluntary abandonment of service by the applicants as made in the CA and relating to reengagement of persons junior to the applicants as made in the OA are casual, we direct the respondents to rescreen the service of the applicants and

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if those engaged on open line work had completed more than 120 days and those engaged on project work had completed more than 180 days, grant them temporary status and if any monetary benefits accrue to the applicants on account of their entitlement to temporary status in accordance with the extant provision of Indian Railway Establishment Manual and instructions of the Railway Board after 120 or 180 days as the case may be for the remaining period of their engagement, allow them such benefits. The names of the applicants shall be entered on the Live Register for casual labour after rescreening is completed granting the applicants their rightful place in it on the basis of their period of service. If any of the applicant is able to furnish name/ names of his junior /juniors and establish the reengagement of such person/persons, the respondents are directed to reengage him and give him all benefits from the date of engagement of his junior/juniors. The respondents are directed to comply with the directions within a period of three months from the date the applicant furnish details of their service and date of reengagement of juniors with their names along with a copy of this judgement.

7. There shall be no order as to costs.



Member-A



Member-J

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