

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD.

Allahabad this the day of 7th December 1994.

ORIGINAL APPLICATION NO. 227 OF 1992 (D)

Gaya Prasad, aged about 30 years,

S/o Shri Ram Dass, R/o 172, Inside Orchha Gate,

Jhansi.

..... Applicant.

By Advocate Sri R.K. Nigam.

Versus

1. Union of India through General Manager,

Central Railway, Bombay VT.

2. Chief Workshop Manager,

Central Railway Workshop,

Jhansi.

3. Divisional Railway Manager,

Central Railway,

Jhansi.

..... Respondents.

By Advocate Sri G.P. Agarwal.

CORAM: Hon'ble Mr. Justice B.C. Saksena, V.C.

Hon'ble Mr. K. Muthukumar, A.M.

ORDER (ORAL)

By Hon'ble Mr. Justice B.C. Saksena, Vice-Chairman.

1. The Original Application no. 227/92(D) with was disposed of by certain observations by an order dated 13th April 1993. Thereafter, the respondents to the O.A. have filed CCP No. 1577 of 1994 indicating

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that pursuant to the direction of this Tribunal, the applicant of the O.A was called upon to appear and prove the genuineness of the working of the Casual Labour Card. It is stated that the applicant did not turn up and has not associated himself with the enquiry, ^{An} ~~and~~ objection ^{Bel} ^{"in OA"} on behalf of Gaya Prasad ~~and~~ the applicant has ^{been filed} ~~filed~~ to this application.

2. We have heard Sri G.R. Agarwal, learned counsel for the applicant, in Misc. Application no. 1577 of 1994 and Sri A.K. Dave Proxy counsel for Sri R.K. Nigam. After giving due consideration, we are of the opinion that since the O.A had finally been disposed of by the order dated 13th April, 1993. This application preferred by the Union of India, in these circumstances, can be treated as an application invoking the power of this Tribunal Under Rule 24 of the Administrative Tribunal Procedure, Rules, 1987.

3. We have carefully gone through the order passed in the O.A. ^{The} ~~and~~ substance of the said order is that since the applicant had not been associated, during the ^{certain} enquiry to ~~assent~~ ^{Card} the correctness of ~~the~~ the verification of the number of days of working in his Labour Card, he may be associated and the respondents were, accordingly directed:-

"to hold an enquiry afresh associating the applicant with the same and in case it is found that the applicant himself was responsible for submitting a faked card and the card was faked then the applicant will have no claim. Otherwise, the applicant will be given due benefits of the same viz. taking back in service and considering the case for absorption and regularisation."

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4. To our mind, no departmental enquiry as contemplated by the provisions of the Railway Servant Discipline & Appeal Rules, 1968, was directed to be held. A fresh enquiry was to be in a nature of the Administrative Enquiry only. No charge sheet was required, therefore, to be issued. The respondents were right in requiring the applicant, Gaya Prasad, to appear before the Authorities to establish the veracity of the Casual Labour Card and the number of working days put in him, as claimed by him. The counsel for the applicant has filed an objection and has taken a plea that the respondents have not re-instated the applicant, neither any chargesheet has been issued. Hence, the applicant is not associating himself with the enquiry, which the respondents have conducted.

5. In our opinion, the stand of the applicant is not legally maintainable. The respondents are only to hold the Administrative Enquiry and the intention of the order passed in O.A is that if in the Administrative Enquiry, it is ~~not~~ established that ~~in~~ the Casual Labour Card is genuine ^{and} the number of working days of the applicant are correct and if persons with lesser number of working days have been absorbed, then he may be taken back in service. The applicant will be given the said benefits, exercising of power under Procedure Rules. We, therefore, direct the applicant to comply with the request of the authorities to appear before them for verification of Casual Labour Card and the number of working days claimed by him. If the applicant fails to appear on the said date, it would be open to the respondents to pass the orders holding that he has

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establish
failed to/ varacity of his Casual Labour Card and
also the number of working days and conclude the
report of the Administrative Enquiry. The Misc.
Application no. 1577/94 stands disposed of.

7. There shall be no order as to costs.


MEMBER (A)


VICE-CHAIRMAN

ALLAHABAD: DATED: 7th December 1994.

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