

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH, ALLAHABAD

Original Application No: 253 of 1992

Vijendra Nath Pandey .... Applicants.

Versus

Union of India & ors. .... Respondents.

With

Original Application No: 254 of 1992

H.K.Yadav .... Applicants.

Versus

Union of India & ors. .... Respondents.

Hon'ble Mr. K.Obayya, Member-A

• Hon'ble Mr. A.K.Sinha, Member-J

(By Hon'ble Mr. K.Obayya, A.M.)

The applicant has approached the Tribunal for restraining the respondents from terminating his service and to regularise him in class IV post w.e.f. the date of regularisation of his juniors. There is also a prayer to continue him on the post of Gatekeeper, under Station Superintendent, Ghupra Kuchejery station N.E. Railway and for payment of salary since December, 1991 and arrears thereof.

2. The applicant who was initially engaged on 7.1.1981 as Casual Labour, worked till 30.1.1992 with break on different posts like line clear porter, Gatekeeper etc. According to him, after working for 120 days, he acquired the status of temporary employee and was put on regular salary and became entitled to privileges like Railway pass, leave, medical facilities etc. which were given to him. His grievance is that as he has worked for more than 10 years he could not have been terminated without following Rule 149 of

Railway Establishment Code and the provisions of Section 25 of I.D. Act. It is his contention that his juniors are being continued in service while he has been unjustly terminated.

3. The respondents have opposed the case and stated in their reply that as the applicant was engaged at different times and has acquired temporary status, but that alone will not give him right for regularisation and absorption as there are many seniors above him who were engaged prior to 1.1.1981 and they have to be regularised first; before they could consider others. It is pointed out that no juniors to the applicant were regularised or being continued in service.

4. We have heard the counsels of the parties. The learned counsel for the applicant stated that the applicant has worked for more than 10 years and he has also acquired temporary status and since this fact is not denied by the respondents, the applicant was entitled for screening and regularisation as some of his juniors are being given that benefit and regularised. He has mentioned the case of one Kashi Nath S.No. 227 of the seniority list of Casual Labour, the applicant stands above Kashi Nath at S.No. 175 in the seniority list of Casual Labour, so he has a preferential claim for regularisation over his juniors. The learned counsel for the respondents pointed out that Railway Board has formulated a scheme, in compliance of Supreme Court's decision in Inder Pal Yadava's case and regularisation of

Casual Labour has been taken up in a phased manner. In the first phase Casual Labour appointed prior to 1.1.1981 and still continuing in service, their cases have to be considered. Cases of others appointed subsequent to 1.1.1981, will be taken up in second phase. A live casual labour register has been opened in which names of all Casual Labour are entered in order of seniority reckoned on the number of days worked and their cases will be taken up on the basis of seniority as and when vacancies arise.

5. This raises two issues, though they are inter related; namely seniority and the right of regularisation that flows from it. Admittedly, applicant's name is there in the casual labour register. Only he has to be screened and regularised. On the question of seniority, applicant has stated that his name is at S. No. 175, while one Kashi Nath who is at S. No. 227 of the same list has been regularised. Respondents are directed to verify the casual labour register and in case the junior (Kashi Nath) has been regularised there is no reason why the applicant should be denied of such regularisation. Both the parties rely on Inder Pal Yadava's case, and the scheme formulated by Railway Administration for regularisation of Casual Labour.

6. The applicant is not coming up in the first phase of regularisation as his engagement was after 1.1.1981. This, however, does not take away his right for screening and regular appointment in his turn in seniority. In the circum-

stances, we direct the respondents to place the name of the applicant above his juniors in the live casual register, and thereafter to take up his case for screening and regularization in his turn. We understand that some casual labour are being continued irrespective of juncrity/seniority position because of Tribunal's orders in those cases. we make no observation of such cases, though we are not in favour of bypassing the seniority position for service benefits like regularization. In any case, the applicant is entitled for re-engagement as he had attained temporary status, and he should be reengaged with immediate effect by giving preference over juniors and outsiders. The application is disposed of with above directions and parties to bear costs.

*Sd*  
Member-J

*Sd*  
Member-AW

Allahabad Dated: 13.4.93

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