IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

A L L A H A B A D

Dated : 15th September, 1995.

ORIGINAL APPLICATION NO. 1169 of 1992.

C O R A M :- Hon'ble Mr. T. L. Verma, Member-J.
Hon'ble Mr. S. Dayal, Member-A.

Senior Divisional Electrical Engineer,
N.E.Railway, Lucknow..... Petitioner.

(By Advocate Shri Lalji Sinha)

Versus

1. The General Secretary, N.E.Railway,
Shramik Sangh, 6, Navin Market, Lucknow.

2. Shri Waris Ali son of Rashid,
through General Secretary, N.E.Railway,
Shramik Sangh, 6, Navin Market, Lucknow.

.....Respondents.

(By Advocate Shri S. K. Mishra)

ORDER (By Hon.T.L.Verma, Member-J)

The subject matter of challenge in this O.A. is award dated 29.2.1991 passed in Industrial Dispute No.310 of 1989 by the Central Government Industrial Tribunal-cum-Labour Court, Pandu Nagar, Kanpur.

2. The facts giving rise to this application briefly stated are that the respondent No.2 Waris Ali was engaged as Casual Labour on 16.9.1982. He worked as such till 1.1.1986. His services were terminated by the applicants with effect from 2.1.1986 without notice or one month's pay in lieu of notice and

payment of retrenchment compensation. This according to the respondent was violative of provisions of Section 25-F of the Industrial Disputes Act.

3. The Northern Railway Shramik Sangh, Lucknow raised a dispute on behalf of Sri Waris Ali. The Central Government referred the dispute for adjudication to Industrial Tribunal -cum-Labour Court. The dispute referred was :-

> "Whether Sr.Divisional Electrical Engineer NE Rly Lucknow was justified in terminating the services of Shri Waris Ali s/o. Rashid Casual Labour w.e.f.1.1.1986 ? If not what relief the workman concerned is entitled to ?"

4. The Industrial Tribunal cum-Labour Court has held that the action of Senior Divisional Electrical Engineer North-Eastern Railway, Lucknow in terminating the services of Sri Waris Ali was unjustified and that he was entitled to re-instatement with full back wages. The above award has been challenged by the applicants, inter-alia, on the ground that the Railway Board by its circular dated 18.2.1980 had placed a ban on fresh recruitment of casual labour/substitute and as such the appointment of Sri Waris Ali was without jurisdiction, and as the same was void-ab-nitio, for that reason ~~~~ complying with provisions of Section 25-F of the Industrial Disputes Act, 1947 was not mandatory.

5. The only question that falls for our consideration in this case is whether compliance of provisions of Section 25-F of the Industrial Disputes Act was

necessary before terminating the services of the respondent No.1. It is not in dispute that the respondent No.1 had worked for over 500 days as Casual Labour. According to the respondent No.1 he was engaged as Casual Labour on 16.9.1982 whereas the applicant claims to have been engaged for the first time on 10.12.1983. Irrespective of the date of initial appointment, the Labour Court has held that the respondent No.1 had worked for more than 356 days in between 2.1.1985 and 1.1.1986. According to the provisions of Section 25-F of the Industrial Disputes Act, before the services of a workman who has worked one year or more, hehad to be served with one month notice in writing indicating the reasons for retrenchment or one month's pay in lieu of notice. It has been held by the Apex Court time and again that the provisions of Section 25-F of the Industrial Disputes Act are mandatory and non-compliance with the aforesaid provision will vitiate the termination. In the instant case, it has been admitted by the Management before the Labour Tribunal that the workman was not given notice as required by Section 25-F of the Industrial Disputes Act. The finding of the Tribunal in the aforesaid view of the matter can not be faulted because there has been clear refraction of the aforesaid provision.

6. We now address ourselves to arguments of the learned counsel for the applicant that the appointment of the respondent No.1 being void-ab-nitio, compliance with the provisions of Section 25-F of the Industrial Disputes Act was not necessary. It was stated that there was ban on fresh appointment of casual labours/substitute

after 31.12.1980. This ban admittedly had been put by issuing administrative instructions. Administrative instructions, it is settled, principle of law can not adversely affect the legal rights that flow from provisions of law or statutory Rules. Appointments made by competent authority, in a regular manner though, in violation of administrative instructions may invite action against Officer who violates the such instructions but, the same can not vitiate the appointment itself which otherwise was regular and legal. We, therefore, find no merit in this argument also.

7. The scope of judicial view of the orders passed by the Labour Courts in a dispute referred for adjudication to the Labour Tribunals is very limited.The Tribunal or Courts do not interfere with the order passed by the Industrial Tribunal cum-Labour Court unless it is established that the same is perverse and not supported by material on the record. We have perused the impugned award and we find that the same is based on the evidence adduced on behalf of the parties and that no irregularity has been committed by the Tribunal in adjudicating the dispute referred to it.

8. In view of the discussions made above, we find no case for interferring with the award passed by the Industrial Tribunal-cum-Labour Court. This application is dismissed as devoid of merits. There will be no order as to costs.

A.M. J.M.

VKP/-