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RESERVED

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD  
ADDITIONAL BENCH AT ALLAHABAD

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Allahabad : Dated this 27 day of February, 1996  
Original Application No. 1499 of 993

District : Allahabad

CORAM:-

Hon'ble Mr. S. Das Gupta , A.M.

Hon'ble Mr. T.L. Verma, J.M.

1. Bhagwat Prasad S/o Sri Kanhaiya Lal  
R/o Village Ghuha, P.O. Amiliya Kala, Meja,  
District-Allahabad.

(By Sri KK Mishra, Advocate)

2. Rajendra Prasad S/o Sri Raghuvir Prasad R/o  
Village Pyagpur (Sovir) P.O. Nahwai  
Distt-Allahabad.

(By Sri KK Mishra, Advocate)

..... Applicants

Versus

1. Union of India, through Secretary  
Ministry of Railways, Rail Bhawan,  
Baroda House, New Delhi.

2. Chief Engineer (Workshop)  
Northern Railway, Rail Bhawan,  
Baroda House, New Delhi.

3. Assistant Engineer,  
Welding Plant, Northern Railway  
Meerut Cantonment, Meerut.

4. - Workshop Superintendent, Welding Plant  
Northern Railway,  
Meerut Cantonment  
Meerut.

(By Sri AK Gaur, Advocate)

..... Respondents



ORDER

By Hon'ble Mr. S. Das Gupta, A.M.

The relief prayed for in this OA filed under Section 19 of the Administrative Tribunal's Act is that a direction be issued to the respondents to re-engage the applicants after entering their names in the list of casual labours and further prayer is that they be considered for regularisation in accordance with the law in order of their seniority.

2. Both the applicants in this case are stated to have been appointed as casual Khalasis in Welding Plant Workshop Meerut on 29-10-1985 and to have been continued to work till 30-6-1986 for a total of 236 days without any break. They thus completed the requisite period of service for being conferred with temporary status, but the respondents did not confer temporary status on the applicants in violation of the instructions of the Railway Board. They have claimed that their performance was satisfactory and yet they were not engaged after June, 1986 despite availability of work and engagement of fresh casual labours. The applicants have taken a plea that having completed 120 days of continuous service, their services could not have been terminated unless the job on which they were engaged had been completed. The applicants have stated that they continued to make representations and met the respondents personally but each and every time they have been assured that their names are on the panel for screening and as and when their turn would come, they would be informed. However, nothing so far has been done to redress their grievance. They have, therefore, challenged the verbal order passed by the respondent no.4 by which their services stood terminated. It is stated that only after being informed by their junior colleagues Sri Prem about recruitment of the juniors of the applicant, the respondents have filed this



O.A.

3. The respondents have filed a counter reply in which a preliminary objection has been taken to the maintainability of the application on the ground of limitation. It has also been stated that the applicants have approached this Tribunal with ~~an~~ unclean hands, as they have concealed the fact that they were employed in Butt ~~Welding~~ Welding Plant, Meerut in the year 1985-86 on the basis of their working in the Railways prior to 8-8-1978. The respondents have also stated that the applicants were not originally appointed as casual labour in Meerut. They were among 22 casual labours/Khalasis who were inducted from Allahabad Division. At the time of giving temporary status, their records were checked through the permanent Way Inspector, Allahabad under whose jurisdiction they were originally appointed. The PWI, on checking records of the applicant and relevant casual labour cards, came to the conclusion that the casual labour cards were bogus and thereafter the services of the applicants were dispensed with. It is further alleged that such persons could not muster enough courage to protest against their action as they feared prosecution. But now since 5-6 years have passed since then, they have approached this Tribunal through this OA.

4. The applicants have filed the replication in which they have denied that they were initially appointed in Allahabad. They have further stated that at the time of initial appointment at Meerut, it was the duty of the respondents to confirm from PWI, Allahabad whether applicants had worked or not. But the respondents have failed to perform their duties. They have further stated that as they have completed more than 120 days they have acquired ~~a~~ temporary status and, therefore, it was mandatory on the parts of the respondents to serve a show cause notice on the applicant even assuming that their appointment was

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on the basis of bogus casual labour cards.

5. We have heard learned counsel for both the parties and perused the records. On perusal of the documents annexed by the respondents, it appears that the Assistant Engineer (W) of the Butt Welding Plant Meerut had written to the Northern Railway Headquarters stating that due to non-availability of Pre August 1978 casual labours locally <sup>for</sup> having double shift working in the plant, certain casual labours who had earlier worked in Allahabad Division prior to August, 1978, were inducted in the plant and that on completion of 120 days continuous working, their casual labour cards were sent to their respective units for verification and that the PWI, Allahabad on checking his records communicated that the labour cards were bogus. It has been seen from Annexures to this letter that the names of the applicants figured in the list of such casual labours. We have also observed that the applicants did not effectively controvert the allegations of the respondents that they were appointed in Butt Welding Plant Meerut only on the basis of their earlier work in Allahabad. They have only contended that it was the responsibility of the respondents to have verified the record of their earlier working at the time of their appointment, under the Welding Plant. We have, therefore, no manner of doubt that the applicants, <sup>on the basis of</sup> ~~did work~~ in Allahabad Division <sup>where inducted</sup> ~~prior to their induction~~ in the Welding Plant at Meerut, and their disengagement had taken place on account of their production of bogus casual labour cards.

6. According to the circular of the Railway Board, the casual labour to obtain temporary status are required to be given the benefit of DAR proceedings before their services are terminated <sup>for</sup> ~~after~~ misconduct. The applicants admittedly worked for more than 120 days continuously

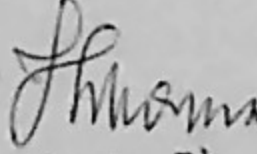
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in Meerut and, therefore, they had acquired the right to be conferred temporary status. This, however, was not conferred on them as on verification they were found to have produced bogus casual labour cards. Even if we take the view that the applicants should have been given an opportunity to defend themselves before their services are terminated on the grounds of misconduct as they were deemed to have attained temporary status, the fact remains that their re-engagement took place as far back as on 30-6-1986 and the cause of action had arisen only at that point of time. This application having been filed only on 29-9-1993, such cause of action had become very stale. Their version that they have been assured from time to time regarding re-engagement and they received the information that their juniors were screened by the respondents very late, it does not appear to ring <sup>true</sup> time. On the other hand, the version of the respondents that the applicants lay low for several years, after their discharge for fear of prosecutions appears to be ~~critical~~ <sup>credible</sup>.

7. In view of the foregoing, we find no merit in this application and the same is dismissed. There shall, however, be no order as to costs.

  
Member J)

  
Member (A)

Dube/