

Reseved.

CENTRAL ADMINISTRATIVE TRIBUNAL ADDL. BENCH, ALLAHABAD.

ALLAHABAD the 5th Day of January, 1993.
ORIGINAL APPLICATION NO: 318 of 1993.

CORAM: HON'BLE MR. S.DAYAL, AM.,
HON'BLE MR. S.K.AGRAWAL, J.M.,

....

Surendra Singh son of Sri Sripati Singh,
resident of Uruwa Bazar, Gorakhpur,

(Sri Anand Kumar, Advocate).

... Applicant.

Versus :

1. The Union of India through General Manager Railway Electrification (RE), Allahabad.
2. Inspector of Works/ Horticulture, Railway Electrification (HQ), Allahabad.

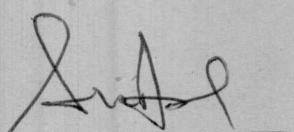
(Sri S.N.Gaur, Advocate).

... Respondents.

ORDER:

(Hon'ble Mr. S. K. Agrawal, J.M.).

In this O.A., the Applicant makes a prayer to quash the order of termination if any, passed by the respondents and direct to give the benefits of the judgement to the applicant as given in Ram Ratan's Case.


In brief facts of the case as stated by the applicant that the applicant was initially engaged as Casual Labour on 16-4-1977 under the I.O.W.(Construction) Survey N.E.R, Gorakhpur and worked upto 15.7.1978 and attained temporary status but he was not allowed to work thereafter, due to lack of work. That the applicant was re-engaged after he got the Driving Licence as Casual Auto Lawn Motor Driver

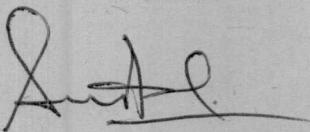
on 28.8.1986 under I.O.W(Horticulture) Railway Electrification, Allahabad and worked upto 1.4.1987 for 216 days and thereafter, applicant was not allowed to work but he was verbally told that his services have been terminated. It is stated that no notice before termination was given to the applicant, therefore, the said termination is arbitrary, illegal and without jurisdiction. Applicant filed Representation and personally met with the concerned authorities but with no results. It is stated that Shri Ram Ratan Thakur similarly situated person filed O.A. No523/89 which was decided on 20-5-1992 therefore, he is also entitled to the benefits which were allowed to Sri Ram Ratan Thakur.

Counter was filed. In the Counter, respondents denied the engagement of the applicant on Casual Labourer from 16.4.1977 to 15.7.1978 and also denied that the applicant attained temporary status thereby. It is stated that in fact applicant approached I.O.W.(H/C) RE, Allahabad for work on the basis of Casual Labour Card pinpointed to be issued by the office of Construction Survey NER, Gorakhpur and he was given job and the same was sent for verification to the concerned authority, who after verification conveyed that the applicant never worked in the survey organisation there and the Labour Card submitted by the applicant was found to be false and bogus. Therefore, the applicant was discharged on 2.4.1987. The case of Sri Ram Ratan Thakur is quite different from the case of the applicant that when he was discharged on 2.4.1987 and knew the grounds of discharge but he never submitted objection/representation against the discharge and approached even after 5 years to this Tribunal, therefore, this O.A. is barred by limitation and liable to be quashed.

Rejoinder has also been filed reiterating the facts stated in the O.A.

Heard the learned lawyer for the applicant and the learned lawyer for the respondents and perused the whole record.

Learned lawyer for the applicant has referred to ~~following~~ Case law: "1. Beer Singh vs. UOI & Ors (1990(14)ATC.279).
2. Byomkesh Ghosh Vs UOI & Ors. (1993(25)ATC552).
3. Moti Ram & Ors vs. U.O.I & Ors. Reg. No 2614/91. Decided on 16.7.93 By CAT(Pb) New Delhi.,"



-in support of his arguments.

According to the respondents, applicant was never engaged as Casual Labourer from 16.4.1977 to 15.7.1978 under I.O.W.(Construction) Survey NER, Gorakhpur.

3.

According to the respondents it appears that the applicant was re-engaged on the basis of Casual Labour Card produced by the applicant and on verification, the card was found to be bogus and it was revealed that the applicant was never engaged from 16.4.1977 to 15.7.1978 as a Casual labour, therefore, he was discharged on 2.4.1987.

Applicant is a daily-rated Casual Labourer. It is settled law of the Supreme Court that a Casual Labourer has no right to a particular post. He is neither a temporary government servant nor a permanent government servant. The protection given by Article 311 does not apply to him. He is asked to do a job on a daily-wage basis. His tenure is precarious. His continuance is dependent on the satisfaction of the employer. A temporary status conferred on him by the scheme only confers on him those rights which are spelt out in clause 5, namely, wages at the minimum of scale for Group 'D'; benefits of increments would be taken for pro-rata wages annually; leave entitlement and certain other privileges. Thus, the respondents are very much within the rights in terminating his services. A daily-rated Casual labourer does not ipso facto get a right of continuance. His right of continuance is subject to (i) if work is available, (ii) if his performance and conduct are satisfactory. In the present case, the two premises are that the applicant has absolutely no rights to a permanent post and the order of termination is an order simplicitor and not stigmatic. While the Supreme Court decision dealt with a temporary employee who is entitled to protection of Article 311, a daily rated Casual worker cannot invoke the provisions of Article 311 of the Constitution.

In the instant case, applicant has failed to establish the fact that he was given temporary status whereas, respondents could prove the fact that the applicant was not engaged w.e.f. 16.4.1977 to 15.7.1978 and the card submitted by the applicant was bogus. Therefore, we are of the considered opinion that in such circumstances no notice was required discharging the applicant. Rulings cited by the learned lawyer for the applicant are not applicable in this case as per facts and circumstances of the case.

As regards Judgement of Sri Ram Ratan's Case is concerned, we are not inclined to say that the case of the applicant is similarly situated so as to give the benefits of Ram Ratan's case. It is a settled principle of law that if benefits

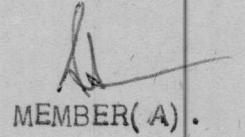
4.

are available to a class of employee on the basis of ruling of a Competent Court such benefit should be made available to all employees similarly situated. As per facts and circumstances of the instant case, the applicant is not entitled to the benefit of Ram Ratan's Case. Applicant files this O.A after 5 years from the date of his discharge, therefore, this O.A. is grossly barred by limitation.

Therefore, Applicant is not entitled to any relief sought for and this O.A is dismissed with no order as to cost.



MEMBER (J) 8/1/99



MEMBER (A)