

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH

ALLAHABAD.

Allahabad this the 11th day of May 2001.

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Maj Gen K.K. Srivastava, A.M.

Original Application no. 584 of 1993.

Yadubansh Mishra, S/o Raj Mani Mishra,
Village Bhit, Post Office Bhit (Khoria),
Distt. Gorakhpur.

... Applicant

C/A Shri D.P. Srivastava
Shri K.C. Sinha

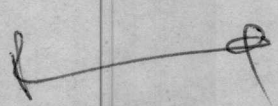
Versus

1. Union of India through General Manager,
North Eastern Railway, Gorakhpur.
2. Divisional Railway Manager,
Samastipur.
3. Senior Divisional Engineer, Samastipur.
4. Inspector of Works, N.E. Rly.,
Gorakhpur.
5. Inspector of Works, Barganiya
Samastipur.

... Respondents

C/Rs. Sri Amit Sthalekar

...2/-



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ALONGWITH

Original Application no. 1695 of 1993.

1. Deep Narain,
S/o late Shri Basudev,
A/a 42 years,
R/o MashaATam, Post Office Bairagrhi,
Sitamarh.
2. Rajendra, a/a 35yrs
S/o Shri Shiv Nandan,
R/o Village & Post Misahi, Bainagahi,
Distt Sitamarhi.
3. Shree,
S/o Ashargi,
a/a 43 yrs
R/o Village Masahi,
Distt. Sitamarhi.
4. Ram Bahadur,
S/o Shri Satnarain,
a/a 35 yrs,
R/o Yadvans Mishra,
R/o Turkmanpur PatwariTola;- Near National Convent
School, 273005.

... Applicants

C/As Sri KC Sinha

Versus

1. Union of India through General Manager,
N.E. Rly.,
Gorakhpur.
2. Divisional Railway Manager,
Samastipur.
3. Senior Divisional Engineer,
Samastipur.

...3/-

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4. Inspector of Works, Barganiya,
Samastipur.

...Respondents

C/Rs Sri P. Mathur
Sri A. Sthalekar

O R D E R (Oral)

Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

The questions of facts and law in both the aforesaid OAs are similar and both the OAs can be decided finally by a common order against which the counsel for the parties have no objection. The OA 548/93 shall be the leading case.

2. The applicants by means of these OAs under section 19 of the A.T. Act, 1985, have prayed for a direction to the respondents to give the benefit of temporary status immediately after completion of 120 days taking into effect that all the applicants were working as casual labours from the date of their joining. It has also been prayed that consequential benefits may also be given to them including regularisation etc.

3. In OA 584 of 1993, there is only one applicant while in OA 1695 of 1993 there are 4 applicants. Annexure 2 and 3 ^{are} of the orders passed in favour of the applicants giving them certain benefits on completion of 180 days continuous service. In counter affidavit while denying the claim of the applicant it has been stated that the applicants were engaged as casual labour against a project and they could not acquired temporary status as they claimed. However, the legal position

cannot be disputed that even in a project a casual labour, if he worked for 180 days, acquires temporary status. In annexures 2 and 3 passed infavour of the applicants 180 continuous working has been clearly shown. Thus we are of the opinion that applicants had acquired temporary status when they were not allowed to work on 16.10.1992.

4. In counter affidavit it has been pleaded that the applicants were retrenched from the service on completion of the project after complying with the requirements under section 25-F of Industrial Dispute Act, 1947. To ascertain correctness ^{of} this plea, this Tribunal by order dated 10.12.1998 directed the respondents to produce relevant records. Shri A. Sthalekar during hearing of the case, made available to us the record pertaining to the applicants. We have perused the same. From the records it appears that towards compliance under section 25-F, some exercise was done which was confined to papers only. There is clear mention that the amount of compensation was not paid and the applicants were not given any notice as required under law. Thus defence taken by the respondents that termination of the applicants ^{was} ~~is~~ in accordance with law, is not correct. Our findings is that the applicants ^{have} ~~had~~ already acquired temporary status on completion of 180 days work. ^{As} they had acquired temporary status, ^{and} they were entitled for all the facilities and protection available to Group 'D' employees. They could be terminated from service only in accordance with law

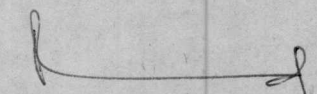
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which in the present case has not been done. Under the circumstances the applicants are entitled for the relief claimed.

5. Both the OAs are accordingly allowed. The respondents are directed to give engagement to the applicants, they will retain the status which they had on 15.10.1992. However, as the applicants have not worked they will not be entitled for any back wages. However, it will not amount to break for the purpose of their seniority and they will be considered for regularisation also in accordance with law.

6. There shall be no order as to costs.


Member-A


Vice-Chairman

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