

## CENTRAL ADMINISTRATIVE TRIBUNAL

~~PRINCIPAL BENCH, DELHI~~  
~~XXXXXXXXXXXX~~ Ahmedabad  
 Ahmedabad



O.A No. 177  
~~T.A No.~~

198 7

DATE OF DECISION 4-5-1990

V.A. Jethuva ~~Petitioner~~ Applicant

Mr. B.B. Gogia Advocate for the ~~Petitioner(s)~~  
 Applicant

Versus

Union of India, owning Respondent  
 Western Railway

Mr. B.R. Kyada Advocate for the Respondent(s)

CORAM .

Hon'ble Shri M.M. Singh, Administrative Member &  
 Hon'ble Shri N.R. Chandran, Judicial Member.

The Hon'ble Mr.

The Hon'ble Mr.

JUDGMENT

JUDGMENT

(Delivered by the Hon'ble Shri N.R.Chandran,  
Judicial Member)

The above application has been filed by the applicant mainly paying for the grant of the benefits flowing from the directions issued by the Supreme Court in what is known as Inder Pal Yadav's case (1985(2)S.L.R.248). The applicant contends that he had been working in the Western Railway as a casual employee up to 10-1-1981 and therefore in terms of the decision of the Supreme Court in Inder Pal Yadav's case, he should be considered for permanent absorption. The applicant has produced along with the application the xerox of his service card in which it is stated that he had worked from 29-11-1979 to 10-1-1981. The applicant also refers to a copy of a letter dated 15th September, 1986 of the Chief Signal and Telecom Engineer (Construction), Bombay, addressed to Smt. Patel Ramaben R. Mavani, Member of Parliament to substantiate his contention that he was in service on 10-1-1981. Since the decision

of the Supreme Court in the above case extended the benefit of absorption to those who were in service on 1-1-1981, inasmuch as the applicant was in service as a casual employee on 10-1-1981, he has prayed that he should also be confirmed.

On the other hand, the learned counsel for the respondent has filed a detailed Reply Statement stating that the applicant worked in broken spells from 29-11-1979 to 12-12-1980 and thereafter with effect from 13-12-1980 to 21-12-1980 <sup>and</sup> he was absent unauthorisedly from duty and did not report for work. The respondent has also submitted that the exrox copy of the service card enclosed to the application is not genuine and the letter written by the Chief Signal and Telecom Engineer (Construction), Bombay has no relevance to the facts of this case. Therefore, no reliance could be placed on this letter. The respondent has also specifically alleged that the applicant was not in service on 1-1-1981 and hence the benefit of the decision in Inder Pal Yadav's case cannot be extended to him.

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We have heard the rival contentions. We have also gone through the xerox copy of the service card and the letter of the Chief Signal and Telecom Engineer (Construction), Bombay. The crux of the matter is whether the applicant can come within the scope of the directions issued by the Supreme Court in Inder Pal Yadav's case for absorption of casual employees who were in service as on 1-1-1981. If the applicant was in service on 1-1-1981, then he will fall within the scope of the decision of the Supreme Court. Accordingly, his case has to be considered for absorption. On the other hand, if he was not in service on 1-1-1981, then the benefits flowing from the decision of the Supreme Court would not be applicable to him. In this context, the applicant has produced a xerox copy of his service card and a letter written by the Chief Signal and Telecom Engineer, Bombay. Even though the applicant has disputed the statement made in the Reply Affidavit by filing a Rejoinder,

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he has not produced any substantial document to reject the statement made in the Reply Statement. On a perusal of the respective pleadings, we are inclined to accept the statement of the respondent that the applicant was not in service on 1-1-1981 and that he was unauthorisedly absent from 13-12-1980 to 21-12-1980 and subsequently he did not join duty. Though it is stated in the application that the applicant has been representing to the Railway administration for giving him the benefits, he has not produced any such representation. The applicant has merely stated in his application that he was in service on 10-1-1981, that his services were terminated and that the applicant could not rush to the Court and get a stay order against the order of termination. We are inclined to hold that these statements lack veracity. Hence we are rejecting this contention. With regard to the casual labour service card, the respondent has specifically stated

that the exrox copy produced by the applicant is not genuine because it does not contain the signature of the PWI(C) Rajkot. In the Rejoinder the applicant has not denied the same. Hence the applicant cannot reply upon the service card to prove that he was in service up to 10-1-1981. The applicant has also not properly rebutted the allegation regarding his absence from 13-12-1980 to 21-12-1980. What is stated in the Rejoinder is that the applicant is very much interested in service and that he comes from an ordinary family and therefore he cannot afford to remain unemployed. These statements are self-serving, which cannot be relied upon.

In view of the above, we hold that the applicant was not employed as a casual employee on the crucial date fixed by the Supreme Court in Inder Pal Yadav's case viz., 1-1-1981 and therefore the relief prayed for in the application to extend the benefits flowing from