

(6)

Shri Laxman Magan,
Shri Mandanlal Bhabutaji,
Manu Bhikha,
C/o. Mandanlal Bhabutaji,
Ramchandra-ki-Chawli,
Dolatnagar, Sabarmati,
Ahmedabad.

.. Applicants

Versus

1. Union of India
Through:

The General Manager,
Western Railway,
Churchgate,
Bombay.

2. Assistant Operating
Superintendent (Estt.)
Western Railway,
Ahmedabad.
3. Station Superintendent,
Asarwa Station,
Western Railway,
Ahmedabad.

.. Respondents.

ORAL ORDER

13-6-1988

Per: Hon'ble Mr. P.H. Trivedi

: Vice Chairman

Heard learned advocate Mr.R.R.Tripathi and Mr.N.S.Shevde for the applicants and the respondents. Learned advocate for the petitioners states that when they were allowed to appear for the examination of CI category, it was not due to oversight or mistake but because of an understanding with the Union of India as is found from para-4 of the written statement of the respondent. It is therefore not possible for the respondent to take the stand that they are merely correcting a mistake by virtue of the impugned orders. However, learned advocate for the respondent has pointed out that the rules merely required a service of six years for casual labourers for substitute for being entitled for screening for empanelment and continuation and the petitioners having admittedly not completed this period of service were not competent or eligible for such empanelment on the basis of relaxed medical standards which were wrongly allowed to them. The fact however, stands that the

petitioners were allowed to take the test according to the relaxed medical standards and they had posted them and the impugned orders seek to terminate their services without any prior notice given to them explaining why this is sought to be done inspite of the examination which was offered to them by the respondent and which they have passed. We do not uphold the right of the petitioners to continue in a post when they had not completed the number of years of service which rendered them eligible for the required medical test. The petitioners have failed in the examination of eighth standard and accordingly they may be eligible to face termination but they cannot be so terminated from service without a prior notice in order to subserve to the ends of natural justice. Accordingly, the respondents are required to give such a prior notice and the petitioners are free to make their representations relating thereto and the respondents are at liberty to dispose of the representations of the petitioners. Until this is done the impugned order of 2/11/1987 seeking to terminate the petitioners' service cannot be upheld and is therefore quashed and set aside. Interim relief already granted to continue. With this observation, the case is disposed of.

P. H. Trivedi
(P.H.Trivedi)
Vice Chairman

P. M. Joshi
(P.M.Joshi)
Judicial Member

a.a.bhatt