(1)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

RA/M.A /O.A./~~T.A.~~/ 43 198

Survey India & Ors. Applicant (s).

B A Kyada Adv. for the Petitioner (s).

Versus

Balabhai H Respondent (s).

Adv. for tha Respondent (s).

SR. NO.	DATE.	ORDERS.
		Stay of operation granted (Order ~~not~~ served)
	02/11	READ Reply from Resp.
	5/12/89	Mr. B R Kyada not present. Mr. B B Gogia has filed sick note. Adjourned. The case be posted for admission. DSM 5/12 CA Saw 6/12
	18/1	Common letter issued in case no OA/422/88 letter dt- 18/1/90 DSM 18/1/90 CA Saw 18.01.90
		* READ Reply from Resp kept in OA/440/89 (28/02)
	2/3	Parties absent no documents produced Adjourned on same stage to 6/4/90 CA
	6/4	Parties absent no documents produced Adjourned on same stage to ~~2/5/90~~ 19/4 CA

SR NO.	DATE.	ORDERS.
	1990	
	19/4	Today case is on Board before Registrar. No documents produced Enough adjournments given earlier. It is a fit case to close the right to file rejn. Submitted for orders before Hon'ble Members
	22/09/92	H/H
		Advocate for R.O.C. 7/8/92
		Date informed to both advocate's Clerks RSC 22/09/92

GAC/

OA/437/91

Date	Office Report	ORDER
22-09-1992		Court was adjourned as a mark of respect to late Ex-Chief Justice of India Shri M. Hiddaytullah ~~of India~~. Call on 3/11/1992. (R.C. Bhatt) Member (J) (N.V. Krishnan) Vice Chairman *AS.

O.A. 437/89

(3)

DATE	OFFICE REPORT	ORDER
18.10.93		This matter is disposed of by common judgment in O.A. 422/89 & Ors. M.R.Kolhatkar (M.R.Kolhatkar) Member(A) (R.C.Bhatt) Member(J) vtc.

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

AHMEDABAD

Application No. 04/437/89 of 199

Transfer Application No._____ Old Writ Pet. NO._____

C E R T I F I C A T E

Certified that no further action is required to be taken and the case is fit for consignment to the Record Room (Decided).

Dated : 17/12/93

Countersigned :

17-12-93

Section Officer/Court Officer Sign. of the Dealing Assistant.

CAT/J/10

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT ~~NEW DELHI~~ AHMEDABAD

INDEX SHEET

CAUSE TITLE..... OA/437/89 .....OF 198□.

NAMES OF THE PARTIES..... U.O.I. .....

VERSUS

..... Bahadursingh .....

PART A B & C

SERIAL NO.	DESCRIPTION OF DOCUMENTS	PAGE
1)	OA	1 to 12
2)	common judg. dtd. 18-10-93	
	Cattached with OA/422/89	

CENTRAL ADMINISTRATIVE TRIBUNAL
AHMEDABAD BENCH, AHMEDABAD.

Submitted; C.A.T./Judicial Section.

Original Petition No. : 437 of 89.

Miscellaneous Petition No. : — of —

~~Shri~~ Union of India — Petitioner(s).

Versus.

Baladevsingh M — Respondent(s).

This application has been submitted to the Tribunal by Shri B R Kyada under Section 19 of The Administrative Tribunal Act, 1985. It has been scrutinised with reference to the points mentioned in the check list in the light of the provisions contained in the Administrative Tribunals Act, 1985 and Central Administrative Tribunals (Procedure) Rules, 1985.

The application has been found in order and may be given to concerned for fixation of date.

The application is not been found in order for the same reasons indicated in the check list. The applicant may be advised to rectify the same within 21 days/Draft letter is placed below for signature.

~~The~~ my ~~issue~~ method issued comms of letter ~~issued~~ in OA/sk 402/89

8/11/89

13/9/89

13-9-89

13/9/89

GAC/1989.

ANNEDURE-I

CENTRAL ADMINISTRATIVE TRIBUNAL

AHMEDABAD BENCH

APPLICANT (S) Union of India & ors

RESPONDENTS (S) Bahadursingh H.

PARTICULARS TO BE EXAMINED	ENDORSEMENT AS TO RESULT OF EXAMINATION
1. Is the application competent?	Yes
2. (A) Is the application in the prescribed form?	Yes
(B) Is the application in paper book form?	Yes
(C) Have prescribed number complete sets of the application been filed?	Yes
3. Is the application in time?	Yes
If not, by how many days is it beyond time?	—
Has sufficient cause for not making the application in time stated?	—
4. Has the document of authorisation/ Vakalat nama been filed?	Yes
5. Is the application accompained by B.D./I.P.O for Rs.50/-? Number of B.D./I.P.O. to be recorded.	DD 413899 6
6. Has the copy/copies of the order(s) against which the application is made, been filed?	Yes (Anne. A P 11)
7. (a) Have the copies of the documents relied upon by the applicant and mentioned in the application been filed?	Yes
(b) Have the documents referred to in (a) above duly attested and numbered accordingly?	Yes
(c) Are the documents referred to in(a) above neatly typed in double space?	Yes
8. Has the index of documents has been filed and has the paging been done properly?	Yes

PARTICULARS TO BE EXAMINED	ENDORSEMENT AS TO BE RESULT OF EXAMINATION.
9. Have the chronological details of representations made and the outcome of such representation been indicated in the application?	Yes
10. Is the matter raised in the application pending before any court of law or any other Bench of the Tribunal?	No
11. Are the application/duplicate copy/spare copies signed?	Yes
12. Are extra copies of the application with annexures filed.	Yes
(a) Identical with the original.	
(b) Defective.	
(C) Wanting in Annexures No_____ Page Nos____?	
(d) Distinctly Typed?	
13. Have full size envelopes bearing full address of the Respondents been filed?	No
14. Are the given addressed, the registered addressed?	Yes
15. Do the names of the parties stated in the copies, tally with hope those indicated in the application?	Yes
16. Are the translations certified to be true or supported by an affidavit affirming that they are true?	Yes
17. Are the facts for the cases mentioned under item No.6 of the application.	Yes
(a) Concise?	
(b) Under Distinct heads?	
(c) Numbered consecutively?	
(d) Typed in double space on one side of the paper?	
18. Have the particulars for interim order prayed for, stated with reasons?	Yes

checked

13/8

SCA 410/89
5/9.

(1)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT AHMEDABAD.

ORIGINAL APPLICATION NO. 437 OF 1989

Union of India

through

The Additional Divisional Railway

Manager (E), WR, Rajkot. .. Applicant

V/s.

Bahadursinh H .. Respondent

: Index :

Annexure:	Particulars :	Page No.
-	Memo of Application	1 to 10
'A'	A copy of Award dated 15th July, 1989.	11-19

Ahmedabad.

Date: .8.1989

(B.R. Kyada)
Advocate for the Applicant

(8)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL

AT AHMEDABAD.

ORIGINAL APPLICATION NO. 437 OF 1989

Union of India

through
Additional
The/Divisional Railway Manager ,

Western Railway,

Rajkot. .. Applicant

V/s.

Bahadursinh.M

.. Respondent

1. Particulars of the applicant:

(i) Name and/or designation of the applicant : Additional Divisional Manager (I), Western Railway, Rajkot.

(ii) Office address of the applicant : - do -

(iii) Address for service of all notices : - do -

2. Particulars of the respondent :

(i) Name of the respondent :

(ii) Designation of the respondent : Workman/Substitute Khalasi

(iii) Office address of the respondent : Station Supdt., Western Railway, Hapa.

(iv) Address for service of all notices : C/o Shri B.B.Gogia,
Advocate,
10, Junction Plot,
Rajkot.

3. Particulars of the Order : Application for staying the operation of the judgment/ Award dated 15th July, 1989 in CR Application No. 117/84 passed by the Presiding Officer, Labour Court, Rajkot.

(i) Date of order : 15th July, 1989

(ii) Passed by : Presiding Officer, Labour Court, Rajkot.

(iii) Subject in brief : That the respondent who was working as substitute has asked to treat his services continued for the period from 18th April, 1984 to 31st August, 1984 and from 1st September, 1984 to 30th April, 1985 and also prayed that the services of the respondent were terminated without following process of law etc. A copy of Award dated 15th July, 1989 is annexed at annexure 'A'.

4. Jurisdiction of the Tribunal : The impugned order dated 15th July, 1989 at annexure 'A' is passed by the Presiding Officer, Labour Court,

Rajkot and therefore this Honourable Tribunal has jurisdiction to decide the same.

5. Limitation : The applicant states that the impugned order dated 15th July, 1989 was received by them on 20th July, 1989 and therefore this application is within time.

6. Brief facts :

The applicant states that the Recovery Application bearing No. 11) /84 was filed by the respondent-workman against the applicant- Railway Department alleging that he had completed 4 months period in service and therefore he was enjoying status of temporary railway servant and therefore without following due process of law his services are terminated etc. After hearing the above Refere--nce the Presiding Officer, Labour Court, Rajkot by its Award/judgment dated 15th July, 1989 declared that the respondent is entitled to his wages from the applicant-Railway for the period of 18th April, 1984 to 31st August, 1984 and from 1st September, 1984 to 30th April, 1985 as claimed in his application and also cost of Rs. 150/-. The applicant is aggrieved by the aforesaid order of the Presiding Officer, Labour Court, Rajkot, and hence this application is

filed on the following main amongst other grounds.

(1) That the Award passed by the Presiding Officer, Labour Court, Rajkot is bad in law and contrary to the evidence.

(2) That the Labour Court has also erred in not considering the proviso of Industrial Disputes Act andhas erred therein. Not only this, butalso erred in interpreting Rule 2302 and 2318 of Indian Railway Establishment Manual.

(3) That the Trial Court has also erred in not considering the status of the respondent and has erred therein.

(4) That the respondent was engaged as substitute in Railway Establishment on regular scale, pay and allowances applicableto the post against which he was engaged and also erred in not considering that the post may fall vacant on account of leave or sick leave or non availability of permanent and temporary railway servant and has also not considered that the substitute is a casual labourer and principle is also applied which was not appli-cable at all in case of substitute and has erred therein.

5) That the respondent has completed 120 days in service and thereforehe is not automati--cally entitled to get temporary status, but after completion of the above period, the substitutes are entitled for rights and privileges admissible to temporary servants from time to time and nothing any more right to continue or to hold the saidpost for ever.

6) That the Trial Court has erred in considering that thesubstitutes have right to continue on the post after completion of 120 days, but on the contrary the substitutes have no permanent standing nor they have lien on particular post, but they are engaged only against the temporary vacancy which falls due on account of regular staff being on leave or sick leave etc. and as soon as they resume their duties, the substitutes hould go as the word itself is sufficient to clarify the position of employee.

7) The Trial Court has also erred in not considering that the substitutes are entitled for wages only for period fro which they are engaged and period spent without any work, till they are given work, they are not entitled to get wages without work. Not only this, but principle of NO WORK NO PAY has not been considered and has erred therein.

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8) That the allegations of the respondent in Recovery Application are after thought and his willingness and request in writing were not properly considered and has erred therein. The Trial Court has also erred in holding that after completion of 120 days, though the respondent has given application for leave and actually he has not worked, even though the Court has erred in considering that the services of the applicant were continued.

9) That the Trial Court has erred in not considering the proviso of substitutes in which the seniority list of substitutes is being maintained separately and the seniority is assigned on the basis of number of days they have worked and in event of requirement they are engaged for time being according to their turn and therefore as of right they cannot claim that as the substitutes have completed 120 days they automatically become regular employees.

10) That the Trial Court has erred in not considering that after getting temporary status the substitute or casual labourer has to pass medical examination, screening and after empanelment and as per his turn according to seniority he can be absorbed in regular employment.

(11) The Trial Court has not considered the basic principle, rules of seldction and therefore the order is bad and deserves to be quashed and set aside. The Trial Court has also erred in considering that after completion of 120 days, the master cannot terminate the services of the employee though he was engaged as substitute. As such without proper selection the employee cannot claim any right for appointment, butat the time of appointment or for appointment other several conditions should be fulfilled, but in this case the Trial Court has erred in not considering the mandatory proviso.

(12) That the Trial Court has erred in quoting para 2 of the TransferApplication No.1310/86 assuch in the said judgment no principle has been laid down. Not only this, but the said case was of casual labourer and therefore on the basis of particcular case where no ratio has been laid down, the same cannot be considered and applied in the present case.

7. Reliefs sought :

(a) To declare the impugned Award dated 15th July, 1989- Annexure 'A' passed by the Presiding Officer, Labour Court, Rajkot in RC Application No.116/84 as bad in law, illegal and null by quashing and setting aside the same ;

(b) pending admission, hearing and final disposal of this application, be pleased to grant interim injunction staying the operation of the impugned Award dated 15th & July, 1989, passed by the Presiding Officer, Labour Court, Rajkot in RC Application No. 117 /84 at annexure 'A' ;

(c) To grant any other relief in the ends of justice.

8. Interim relief :

(a) Pending admission, hearing and final disposal of this application, Your Honour be pleased to stay the operation of the impugned order at annexure 'A' passed by the Presiding Officer, Labour Court,Rajkot, in the ends of justice;

9. Details of the remedies exhausted :-

Against the impugned order dated 15th July, 1989 at annexure 'A', there is no proviso under any Act except to file this present application before this Honourable Tribunal and therefore question of exhausting alternative remedy does not arise.

10. Matter not pending in any other Court ;

The applicant submits that their matter is not pending in any other Court as they have not preferred any application or any suit or proceedings in any other Court except this present application.

11. Particulars of Postal order :-

i) Number of Postal Order :

ii) Name of issuing Post Office : Gujarat High Court, Ahmedabad.

iii) Date of issue of Postal Order :

iv) Post office at which payable : Ahmedabad.

12. Details of Index : Annexed hereto as per item No.13

13. List of enclosures :

(1) A copy of order dated 15th July, 1989 (Annx.'A)

Ahmedabad.

Date: .8.1989

Addl. Divisional Railway Manager (~~I~~), Rajkot,
- Applicant

: Verification :

I, C.K. Makvana, Additional Divisional Railway Manager (~~I~~, Western Railway, Rajkot for and on behalf of Union of India, applicant herein, do

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hereby verify and state that what is stated above is true to the best of my knowledge and belief and that I have not suppressed any material fact. That the annexure is the true copy of the original document i.e. Award.

Verified at Rajkot on .8.1989.

Additional Railway Manager
WR, Rajkot.
- Applicant.

Place: Rajkot

Date: .8.1989

10. Matter not pending in any other Court ;

The applicant submits that their matter is not pending in any other Court as they have not preferred any application or any suit or proceedings in any other Court except this present application.

11. Particulars of Postal order :-

i) Number of Postal Order : DD/6 413899

ii) Name of issuing Post Office : Gujarat High Court, Ahmedabad.

iii) Date of issue of Postal Order : 5-9-89

iv) Post office at which payable : Ahmedabad.

12. Details of Index : Annexed hereto as per item No. 13

13. List of enclosures :

(1) A copy of order dated 15th July, 1989 (Annx.'A)

Ahmedabad.

Date: 4.9.1989

Addl. Divisional Railway Manager (I), Rajkot,
- Applicant

: Verification :

I, C.K. Makvana, Additional Divisional Railway Manager (I), Western Railway, Rajkot for and on behalf of Union of India, applicant herein, do

hereby verify and state that what is stated above is true to the best of my knowledge and belief and that I have not suppressed any material fact. That the annexure is the true copy of the original document i.e. Award.

Verified at Rajkot on .8.1989.

Place: Rajkot
Date: .8.1989

Additional Railway Manager
WR, Rajkot.
- Applicant.

Filed by Mr. Advocate W.R. R'kot
Learned Advocate for Petitioners with second set &..... copies copy served/not served to other side

Dt. 6/7/89

Dy. Registrar C.A.T.(J)
A'bad Bench

Before Shri D.T.ACHARYA
Presiding Officer, Labour Court, Rajkot

A' 48

Central Reg. Applications Nos.116/84,
118/84, 119/84, 122 to 135 of 1984 and
21/85.

Bhupat Gagji and others
C/o. Shri B.B.Gogia,
Advocate,
10, Junction Plot,
Rajkot

VS

(1) Union of India,
Owing & Representing Western Railway,
through General Manager, Western Railway,
Churchgate, Bombay.

(2) The Divisional Railway Manager,
Western Railway, Kothi Compound,
Rajkot.

Appearances : Shri B.B.Gogia for the applicants
Shri M.N. Udani for the opponents

: Judgment :

All these Recovery Applications are ordered to be consolidated by the order of this court passed below Ex.15 after hearing both parties, as the question to be decided in all the Recovery applications is common. The applicants of Tec. applications Nos.116,117,118,119, 122/84 to 135/84 have stated in their applications that they were the workmen of the opponent employer which is an Inudstry, and were working as substitute Khalasis under the Station Superintendent, Western Railway, Hapa. According to the applicants, they had completed 4 months period continuously and were enjoying the status of temporary railway servants and, therefore, their services

could not be terminated, without following procedure of termination prescribed for temporary railway servants. According to the applicants, they were pressed by the Station Superintendent, Western Railway, Hapa on account of instructions from the opponent no.2 to give leave applications for the period from 2.4.1984 to 17.4.1984, and accordingly they had given such applications for leave, and the said leave was sanctioned by the opponent, it is alleged by the applicants that they were not offered any work from 18th April, 1984 by the opponent, and were kept ~~x~~ spare. According to the applicants, they were also not paid any wages from 18.4.1984 to 31.8.1984, though they were ready and willing to work. It is submitted by the applicants that they were entitled to salary for the said period from 18.4.84 to 31.8.84 as the contract of service between them, and the opponent continued and it was for the opponents to take work from them, but they did not chose to take work from them, and so they cannot deny salary to them for the said period. It is, therefore, prayed by the applicants that their dues may be determined U/s.33C(2) of the Industrial Disputes Act, along with ~~xxx~~ orders of costs and damages.

2. The opponents filed their common written statement in all the Recovery applications. The opponents admitted that the applicants had completed 4 months period continuously, and were enjoying the

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status of temporary railway servants as stated by them in para -2 of their applications. The opponents, however, submitted that the question of following procedure of termination meant for temporary railway servants did not arise, as the service of the applicants was not required to be terminated. According to the opponents, substitut--es are the persons engaged in the Railway Establishment on regular scales of pay employed, and these posts may fall vacant on account of railway servants being on leave or due to non availability of permanent or temporary railway servants and which cannot be kept vacant. The opponents admitted in para 2 of the said written state--ment that completion 120 days of continuous service the applicants were granted temporary status and that with the grant of temporary status, they were entitled to rights and previliges as may be admissible to tempo--rary railway servants from time to time. According to the opponents, such substitutes have no permanent standing and they have no lien or particular posts, and such substitutes are engaged only when vacancies are available due to regular staff being on leave or sick leave etc., and as such, such substitutes even though they have attained temporary status are not to be engaged when such vacancies are not available and that when substitutes are not engaged, they are also not entitled to any wages. So, it is the contention of the opponents that unless and until such substitutes are employed and given work., they are not entitled to any wages, of payment. The opponents deny that the applicants were pressed by the Station Superintendent, Hapa, on

account of the instructions from the opponent no.2 to give leave applications for the period from 2.4.84 to 17.4.84 as alleged. According to the applicants at Hapa, they were kept spare and they were not paid wages for the period from 18.4.84 to 31.8.84 on the principle of 'no work - no pay'. The opponents deny that the contract of service of the applicant was continued. According to the opponents, even by conferment of temporary of temporary status, substitutes are not entitled for automatic absorp--tion or appointment to railway services unless they are selected in the approved manner for appointments to regular railway posts. So, in short, the opponents have contended that the claim of the applicants deserve to be dismissed with costs.

3. The applicants of Central Rec. application No.21/85 are the applicants of the aforesaid Recovery Applications, and they have preferred jointly Central Rec. Application No.21/85 for the wages for the period from 1.9.84 to 30.4.1985 on the basis of same facts, and the opponents have also submitted their written statement on the same line of defence.

4. The question to be determined in all these Rec. Applications is whether the applicants are entitled to wages for the period from 18.4.1984 to 31.8.1984, and from 1.9.84 to 30.4.85, as claimed though they were not offered work by the opponent during the said periods. It is undisputed fact on record that the applications were substitutes

(10)

and they had completed 4 months period continuously, and had enjoyed status of temporary railway servants, cannot be terminated by the opponent without following procedure of termination meant for temporary railway servants, while according to the opponents, no such procedure of termination of service meant for temporary railway servants was required to be followed for termination of services of the applicants. It is also admitted position on record that the applicants were not offered any work and were kept spare by the opponent during the period from 2.4.84 to 17.4.84 and from 1.9.84 to 30.4.85, though they were ready and willing to work.

5. The learned Advocate Shri B.B.Gogia for the applicants argued that once the applicants had comp--leted 4 months period continuously and were enjoying status of the temporary railway servants in the opponent, without following procedure of termination of service meant for temporary railway servants. According to Shri Gogia, the applicants were ready and willing to work during the said period, but the opponent did not offer them any work, and did offer them any work, and did not also terminate their service and therefore the applicants were entitled to wages from the opponent for the disputed period, theugh they were not offered work by the opponent.

6. As against the arguments of Shri Gogia for the applicants, the learned Advocate for the opponent

Shri Udani has submitted that the applicants are not entitled to any wages on principle of 'no work no pay', though the applicants had attained status of temporary railway servants by putting in/work for 4 months continuously, and did not work at all for the disputed period.

7. It is admitted position on record that the applicants had attained status of temporary railway servant by continuously working for 4 months period in the opponent. So the only question which requires to be considered is whether the services of the applicants were required to be terminated by the opponent or not, before stopping to give wages to the applicants.

8. Shri Gogia, the learned Advocate for the applicants has cited before me one ruling of the Central Administrative Tribunal in T.A. No.1310 of 1986 delivered on 26.4.88. In para 2 of the said judgment, the learned Administrative Tribunal observed as follows :-

> "In this case the claim of the petitioners is based upon their contention that the the benefits of temporary status has been allowed to them. They have not adduced any proof for their claim in the form of any letter from the respondents. However, under the Indian Railway Establishment Manual in terms of the instructions dated 21.10.80, it is laid down that Casual labourers who have worked for a continuous period of 120 days will be granted temporary status. Such status will also be granted to the Casual labourers working on projects on completion of 180 days of continuous service. The petitioners are admittedly casual labourers, whether they are taken against the regular vacancy or not, and whether for their regularisation they have to be subjected to further screening by Screening Committee or not

(11)

As Casual Labourers, their contention that they have rendered continuous service since the date of their engagement has not been in terms disputed by the respondents. The respondents' contention merely is that one of the petitioners has been taken against the vacancy of Safaiwala and another has not been so taken, but, in neither case any temporary status has been granted to them. The instructions referred to above in the Indian Railway Establishment Manual clearly show that such temporary status accrued on completion of the period of service of 120 days or 180 days continuously if on a project. In either case the petitioner no.1 has comple--ted the required period of service. He is, therefore, entitled to the beenefits of temporary status. Such benefits include the benefits of Discipline & Appeal Rules. It is not disputed that no action for his termina--tion under this rule, has been taken. The respondents' please that the services of petitioners have not taken for work does not at all impress. In practical terms not engaging or taking the peritioners for work and not terminating their services may have significance regarding the consequences; but, the basic adverse effect of not paying them against their entitlement to receive their wages on doing the work has been caused and the petitioner, therefore, must be upheld in his contentions. The respondents admittedly have not terminated services of the petitioners. Their contention that the petitioners have extended himself has not been proved by the respondents from the records. In a Government Organisation as is run by the respondents and any discontinuance service whether caused by voluntary absence or by terminationof service or by any other circumstance needs to be supp--orted by proper documentary record. The petitioners are, therefore, entitled to be taken in service without any hindrance or impedment until they are lawfully terminated by proper orders."

So this rulling of the Central Administrative Tribunal clearly established the legal position that the casual labourers, after they have completed 120 days of work must be granted temporary status. Such casual labourers, after attaining temporary status, will be entitled to benefit available, and attached to temporary status including benefits of Discipline & Appeal Rules. In

this ruling, the learned Central Administrative Tribunal has clearly observed that unless the services of such casual labourers who have attained temporary status are terminated, they cannot be denied their wages. In the present case also the opponent has been terminated services of the applicants. The opponent has merely not called the applicants for work and on that ground alone, the opponent's contention is that the applicants are not entitled to wages on the principle of 'no work no pay'. In my opinion, this contention of the opponent is not legal and valid, because admittedly the applicants attained status of temporary servants, and therefore unless their services were terminated by the opponent according to law they could not be denied their wages when they were ready and willing to work during the disputed period.

9. - Rule 2318 of the Indian Railway Establi-shment Manual clearly lays down that a substi-tutes who have attained status of temporary servants should be efforded all the rights and privileges as may be admissible to temporary railway servants from time to time on completion of six months conti-nuous service, while in the case of the present applicants, four months continuous service. Rule 2302 of the Indian Railway Establishment Manual prescribes manner of termination of services of temporary railway servants and the period of notice which is to be

(12)

required to be given to temporary railway sergants for termination of their services. So admittedly the opponent has not followed procedure of termination of service laid down in the said Rule 2302 of the Indian Railway Establishment Manual, and has not terminated services of the applicants before stopping their wages. In my opinion, unless and untill the services of the applicants were terminated in accor--dance with rule 2302 of the Indian Railway Establish--ment Manual, and has not terminated services of the applicants before stopping their wages. In my opinion, unless and until the services of the applicants were terminated in accordance with rule 2302 of the Indian Railways Establishment Manual, the wages of the applicants who had admittedly attained status of tem--porary government servants could not be denied their wages, when they were ready and willing to work. So I uphold the claim of the applicants in their said Recovery Applications, and pass the order below.

: ORDER :

The applicants are hereby declared entitled to their wages from the opponent for the period from 18.4.84 to 31.8.84 and from 1.9.84 to 30.4.85 as claimed in their respective applications. The opponent shall pay Rs.150/- as costs to each of the said applicants as costs.

True copy

sd/-
(D.T.ACHARYA)
Presiding Officer,
Labour Court, Rajkot.