

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

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AS

Original Application No. 256 of 1990

Rajiv Kumar Pandey

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C.Srivastava, V.C.  
Hon. Mr. K. Obayya, Admn.Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed as Substitute casual labour in the year 1980. The services of the applicant alongwith 439 other applicants were terminated. The applicant and others represented his case through Union. A strike notice was given and the Union asked the employer to consider the cases of these persons. It appears that the services of the casual labours and substitutes were terminated on the ground that ~~they~~ they produced the forged casual labour card.

2. According to the applicant, his service record some was found to be genuine and ~~they~~ they were offered appointment and they were medically examined and they were not offered regular appointment. A writ petition was filed before the High Court which stood transferred to this Tribunal under section 29 of the Administrative Tribunals Act, which was allowed vide judgment dated 24.4.89 directing the respondents to appoint the applicant and those who have been found medically fit.

No orders were passed, although they had worked for more than 240 days and certain rights had accrued in their favour.

3. The respondents were going to screen others and not ~~to~~ the applicants and the applicants have ~~appeared~~ <sup>key</sup> prayed that <sup>they</sup> have acquired the temporary status and their services could not have been terminated and the termination order is illegal and that is why they have prayed that the respondents be directed to consider the case of the applicant in continuous service as substitute casual labour, Loco Shed, Alambagh, Lucknow and further direct the respondents to take work from the applicant and pay him salary regularly till the applicant is absorbed as regular Class IV employee.

4. An objection was raised by the respondents in which it has been stated that the Union, giving a list of 208 employees which included the name of the applicant, approached the Central Government Industrial Tribunal and an award was given against the employees against which the writ petition was filed and is pending and as such the applicant cannot have two remedies.

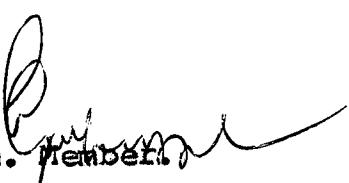
5. As a matter of fact, the case was referred by the Union and merely because the Union raised grievance, it cannot be said that the applicant raised a particular grievance. The question which was referred to the <sup>was</sup> Labour court/as to whether the respondents were justified in terminating the services of the applicants and the

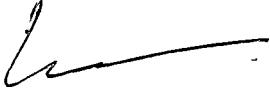
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Labour Court came to the conclusion that ~~some~~ of the cases of the ~~some~~ of the applicants were highly doubtful, but they cannot claim benefit of the same. It appears that the Labour court did not enter into the controversy. Their services could have been terminated only after giving opportunity. This opportunity should have been given to those who have worked for more than 240 days. The respondents are directed to consider the case of the applicants as to whether they have entered the service by using forged card and in case the cards are not found forged, they will be considered from the date their juniors were regularised. It is however, made clear that the applicants who are to be reinstated or to be regularised, will not be paid wages. Let it be done within a period of three months.

5. Application stands disposed of as above. No order as to costs.

  
Adm. Member

  
Vice Chairman.

Lucknow: Dated: 28/3/93.