

BUCKNOW BENCH, LUCK NOWH
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL (XAMADAX BENCH) XAMADAX

O.A. No. 379/90 (L)

D.A. NO.

OF 199

T.A. NO.

Date of decision: 22/2/93

..... Prabhakar Singh Petitioner

..... Shri A.K. Shukla Advocate for the petitioner.

Versus

..... Union of India & Others Respondents.

..... Shri K.K. Srivastava, Advocates for the Respondent(s)

CORAM :-

The Hon'ble Mr. Justice U.C. Srivastava, V.C.

The Hon'ble Mr. K. Obayya, A. M.

1. Whether Reporters of local papers may be allowed to see the judgment ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the judgment ?
4. Whether to be circulated to all other Benches ?

Signature

NAQVI

AS

CENTRAL ADMINISTRATIVE TRIBUNAL,
LUCKNOW BENCH, LUCKNOW.

O.A. No.379/90 (L)

Prabhakar Singh ::::::: Applicant

vs.

Sr.D.M.E., N.E.Rly., ::::::: Respondents.
Lucknow.

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

Hon. Mr. K. Obayya, A. M.

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

The applicant was appointed by Loco Foreman, Northern Railway, on 1/1/79 as a casual labourer. His services were terminated on 4/9/81. Against this termination, he has filed application in the month of November, 1990 stating that he has been compelled to file this application as he has been making representation one after the other but no reply has been given. In view of the fact that the applicant has worked for several days, he has acquired a temporary status and as such his services should not have been terminated in this manner. One Shri Mata Prasad, who is junior to him, was considered for regularisation, whereas the applicant's name was not considered for regularisation.

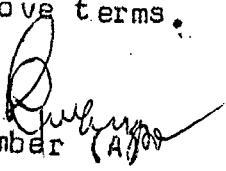
2. According to the respondents, Loco Shed Foreman has no authority to appoint a casual labourer and the applicant did not work under the loco foreman. The applicant was an employee in Railway and secured a pass fraudulently. A fraud was played against the Railway Administration and 2000 persons got their pass fraudulently sometimes back. When this fraud was noticed through vigilance, enquiry was held by the Head Quarters and 2000 persons were identified who have got their pass fraudulently in various subordinate offices in Railway Administration as Casual Labourer.

They were discharged from service on 4/10/81.

It was denied that the said Shri Mata Prasad was junior to the applicant. According to the respondents the applicant has also not completed 240 days of continuous service during any of the preceding Calendar years i.e. 1979, 1980 or 1981.

3. According to the applicant, he has worked for more than 240 days in one particular year which was not to be counted on the basis of Calendar year. He has worked for more than 240 days and even after completing 4 months' service he acquires a temporary status and he cannot be terminated in this manner. He was given appointment and he joined the service.

4. If anybody has committed a fraud, the applicant is not responsible for the same and the applicant cannot be thrown out of the service in this manner. In view of the fact that the applicant was not associated with any enquiry, the respondents are directed to consider the claim of the applicant for re-appointment as casual labour. In case any junior person to the applicant is retained and regularised, the case of the applicant shall also be considered for retention and regularisation. As the applicant has not committed any fraud there is no reason as to why he cannot be given reengagement or reappointment as the case may be. Let this be done within a period of three months from the date of communication of this order. The application stands disposed of in the above terms. No order as to the costs.


Member (A)


Vice-Chairman.

Dated: 22nd February, 1993, Lucknow.

(tgk)