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CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

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J.A. No. 1124 of 1991

Thakuri

Applicant.

versus

Union of India & others

Respondents.

Sri A.K. Shukla Counsel for applicant.

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

As the pleadings are complete, this case is being disposed of finally. Applicant was engaged in the office of Deputy Chief Electrical Engineer (Construction), Alambagh, Lucknow and as per his allegation the applicant acquired temporary status in view of the provisions of Railway Establishment Manual and after putting in required number of i.e. 10 years days/years of service, raised an Industrial Dispute and the matter was referred to Industrial Tribunal Kanpur which was, vide order dated 4.2.1987, was allowed and the the o.p. No. 2 i.e. Deputy Chief Electrical Engineer was directed to regularise the services of the applicant. The respondent No. 2 filed a writ petition against the said award which is still pending. On 8.11.1991 applicant was informed that he has been superannuated from service with effect from 1.11.91, although the applicant worked upto 7.11.91. According to the applicant his date of birth 1.10.1935

and he would attain the age of 58 years only on 1.10.1993. He made representation but nothing was done and according he has approached the Tribunal challenging the said retirement order which tantamounts to retrenchment and is violative of section 25 F of the Industrial Disputes Act.


2. The respondents have resisted the claim of the petitioner/applicant stating that the date of birth of the applicant is 1.10.1933 and he could not be retained in service beyond 31.10.91. It has not been denied by the respondents that he has worked upto 7.11.91 and he was retired with retrospective effect. According to the respondents the casual labours whose cards were issued and the applicant's date of birth was recorded as 1.10.1933 and temporary status was not given to him.

The applicant never appeared for medical examination <sup>as such</sup> and was never declared medically fit and unless he was declared medically fit, he could not have been granted temporary status. The stand which has been taken by the respondents, is rather against the provisions of Establishment Manual, and the applicant after working for a requisite period attained the temporary status. The respondents did not regularise the services of the applicant taking the plea that he did not appear in the medical examination and not found fit. The respondents ~~by stating it have indicated~~ <sup>have no knowledge or have</sup> poor knowledge of Railway

Establishment Manual. ~~When~~ The applicant has been working, there is no question of medical examination. <sup>for attaining temporary status which are get after completion of 120 days of working</sup> Accordingly, this application deserves to be allowed.

Applicant will be deemed to have attained temporary status after completion of the requisite period when he was retired and had attained the temporary status long ago. The respondents are directed to consider the case of the applicant for regularisation and in the matter the respondents will hold enquiry associating the applicant and the enquiry will be concluded within a period of 3 months. In case the applicant's date of birth is found to be incorrectly record, the applicant will be reinstated and will be entitled to other benefits also. The respondents shall fix a date for holding enquiry within a period of one month calling upon the applicant to tender evidence. No order as to costs.

Lucknow: Dated: 9.11.92.

  
Vice Chairman.