

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 154 of 1991

## Versus

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

Hon'ble Mr. K. Obayya, Member (A)

( By Hon'ble Mr. Justice U.C.Srivastava,VC)

The applicant was engaged as substitute porter on 12.12.1982 by the Assistant Operating Superintendent(G) Northern Railway, Lucknow. According to the applicant he was allowed to appear in the medical test in which he passed and he continued to work till 2.4.87 and again he was medically examined on 3.4.1987 on which certain objections were raised. Later on, the applicant was not allowed to appear before Medical Examination and was not given duty thereafter, although, the applicant made several efforts for the same. According to the applicant he has completed more than 240 days of regular service in the calendar year and he acquired the status of a temporary employee and yet he has been thrown out from the service in this unceremonious manner. The matter was referred to the Industrial Tribunal. The Industrial Tribunal answered the award against the applicant holding that the appointment of the applicant was void ~~and~~ ab initio and it appears that there was no entry in the labour card in the year 1986 and 1987 and as such it could be said that he did not work upto the period and was entitled to the benefits of 240 days.

2. The respondents have opposed the application

Contd., 2/-

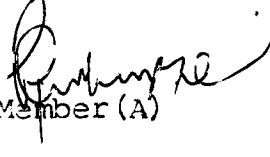
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and ~~they~~ have taken the ~~stereo~~-type plea that the applicant ~~was~~ himself absconded from duty and his engagement/appointment was void and ab initio. As a matter of fact, it was not the case of appointment and as such it was the case of engagement and if the applicant was engaged, it could not be said to void and ab initio, even if for engagement no sanction is needed, the sanction was ~~become~~ implied in as much as the amount which has been paid to ~~this~~ casual labour including the applicant, could not have been paid without the sanction of the competent authority and the labour court did not consider this aspect and rejected the claim of the applicant.

3. The applicant having been medically tested the respondents should have ~~been~~ considered ~~this~~ claim for regularisation or continuation in the appointment. It is also duty of the Railway Administration to see that no injustice is done to any one and no human labour is exploited and in case, ~~there are some mystery~~ <sup>must be</sup> some ~~are~~ <sup>be taken</sup> ~~proper~~ <sup>action</sup> ~~against them~~. is done by their officers, they should scrutinized ~~the~~ <sup>proper</sup> ~~conduct of the officers and take~~ <sup>be taken</sup> ~~action against them~~. The applicant never absconded from duty and as he has worked for several years, his case for regularisation should have been considered. Accordingly, the respondents are directed to re-consider the case of the applicant, in case, he has worked for several years and more than 240 days in a year and ~~was~~ also medically <sup>or reengagement</sup> examined, he may be given re-appointment and thereafter, his case may be considered for regularisation. Let it be done within a period of six months from the date of communication of ~~this~~ order. With these observations,

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the application is disposed of finally. No order as  
to costs.

  
Member (A)

  
Vice-Chairman

Lucknow Dated: 12.3.1993  
(RKA)