

(H) (B) (AS)

CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH, LUCKNOW

Original Application No. 383 of 1991(L)

Kailash Giri & Others . . . . . Applicants

Versus

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

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

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

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

This application has been filed under section-19 of the Administrative Tribunals Act, 1985 with the prayer that the respondents may be directed to allow the applicants to continue in service and pay the full arrears of salary in accordance with the regular pay scale followed by consequential benefits of the same. The respondents may also be directed to regularise the services of the applicants in the order of seniority, considering their length of service followed by consequential benefits of the same and also be restrained from taking any step regarding victimisation of the applicants.

2. The applicants were initially engaged as casual labourers to discharge the duties of IV class employees between the year 1978 to 1981 and the applicants have been engaged <sup>from</sup> time to time, though some artificial breaks have ~~also been given~~ to them. They were treated as substitute after completion of 120 days and regular pay scale were also given to

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them. They were treated as substitute after completion of 120 days and regular pay scale were also given to them. This fact is recorded in the office order date dated 4.8.1988. Earlier they worked even in construction work of Broad Gauge thereafter they were asked to work as Paniwala, Ghaukidar, Masalchi & reliever to the hospital attendant and other duties assignable to class IV employees and at present they are working as Hospital Attendant in the North Eastern Railway Hospital Badshah Nagar, Lucknow. The pay scale of Rs. 196-232 was revised to Rs. 750-940/-; and the applicants were also paid the pay scale of Rs. 750-940/- in the month of December, 1990. Thereafter, they were asked to accept the lesser salary to which proposal they did not agree and made representation after representations to the authorities concerned, but no result. The applicants were told that in case they are interested to continue in service. They should take up whatever work is assigned. Again they preferred the representations against the same. It appears that as a result of the same the respondent No. 5 instructed the respondent No. 4 i.e. the Divisional Railway Manager(Personnel), North Eastern Railway, Lucknow instructed the Matron, N.E. Railway Hospital, Badshah Nagar, Lucknow not to take work from the applicants and consequently with effect from 26th August, 1991 they were not allowed to do work and they were restrained from doing the same.

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3. As per allegations of the applicants, the applicants were being forced to be kept as waiting for engagement from 1.8.1991 while the juniors to them were being allowed to work. The Railway Board's circular dated 8.6.1991 providing that the casual labour on completion of 120 days continuous service, attains a status of ~~as~~ temporary Railway servant and becomes eligible for all the entitlements, privileges admissible to temporary employees. This <sup>oral</sup> order of termination according to them is improper, unjust, illegal and violative to the provisions of Articles 14, 16 & 21 of the Constitution of India. The facts as stated by the applicants which have not been contested by the respondents who preferred to choose them, indicate that the applicants have attained the temporary status the respondents were duty bound to include their names. <sup>A reference may be made to the case of</sup> (1992) 2 Supreme Court Cases page 679 Union of India and others (Applicants) Vs. Basant Lal and Others. (Respondents).

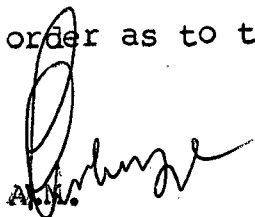
4. Accordingly, this application is allowed. The respondents are directed to re-instate the applicants in service, in case any junior has been allowed to do work and no termination order terminating the services of the applicants was passed. The respondents are directed to restore back the applicants to their original posts place of posting and to take work from them, if any persons who were juniors to them has been allowed to continue and his service has not been orally terminated. The respondents shall also consider the case of applicants for regularisa-

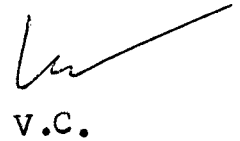
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tion and absorption, in case similarly place persons' cases have now been considered and decided in order of seniority and Let a decision in this behalf be made within a period of two months from the date of a receipt of this order and they will also be given the pay scale to which they are entitled to, In case, the pay scale ~~payed~~ by the applicants has been paid to the similarly placed ~~le~~ casual labour ~~or~~ to those who became casual labour and substitute <sup>after</sup> ~~to~~ the applicants, are getting the same scale. No order as to the costs.

  
R.K.A.

  
V.C.

Lucknow Dated 13th July, 1992

(RKA)