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CENTRAL ADMINISTRATIVE TRIBUNAL LUCKNOW BENCH LUCKNOW

Original Application No. 207 of 1992

Union of India and another Applicant

Versus

Sri Mohammad Mujib and another Respondents

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

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

The respondent no. 1 was entered as a Casual Babour on 26.6.1981 in the Railway. Some ten months thereafter, his services were terminated. Before the appointment of the respondent no. 1, his father has given false declaration that none of his sons was employed in these Workshops of the Northern Railway, but later on it was found that his two sons were already employed in the Workshops, but this false declaration was given by his father not by his son. The lower Court after taking into consideration the Railway Establishment Code reached in the conclusion in this case that no show-cause notice was given to the respondent no. 1, as such without giving notice and without taking his explanation, the services could not have been terminated. In view of the fact that the respondent no. 1 has passed the screening test and thereafter was taken in the employment, may it be because of fraud committed by his father, notice could have been given to him and explanation could have been taken, but the same was not done.

2. Accordingly, there appears to be good ground and we also agree with the Labour Court that notice may be given to the respondent no. 1 and explanation may be taken and thereafter it is for the Railway Administration either to allow him in continuing service or to terminate his services or thereafter take him back in service. However,

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We make it clear that the applicant is responsible for what has happened. Even in case, the respondent no. 1 gets the employment, he will not get any back wages and in case, employment is not given to him and he is found guilty, obviously, he has no claim and back wages will also not be given to him. With these observations, the application is disposed of finally. No order as to costs.


Member (A)


Vice-Chairman

Lucknow Dated: 28.1.1993

(RKA)