BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY.

1. O.A. No.131/87.

Shri Prakash N .Chaudhary,
Shreeram Nagar Section,
29, Ulhasnagar Camp,
No.4, Taluka Ulhas Nagar,
Dist. - Thane. ...Applicant.

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan. ...Respondent

2. O.A. No.243/87.

Shri Rajeswar Yadav,
C/o. Rambahadur Yadav,
Waldhuni, Ashok Nagar,
Murgibai Chawl,
Kalyan, Dist. - Thane. ...Applicant

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan. ...Respondent

3. O.A. No.244/87.

Shri Subhas Chandrasingh,
C/o.Rambahadur Yadav,
Waldhuni, Ashok Nagar,
Murgibai Chawl, Kalyan,
Dist. - Thane. ...Applicant

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan.

4. O.A. 245/87.

Shri Shivnath Prasad,
C/o.Shiv Narayan Yadav,
Ambedkar Nagar,
Teen Lakdi, Igatpuri,
Post Igatpuri,
Dist. - Nasik. ...Applicant

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan. ...Respondent

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5. O.A. No.246/87.

Shri Rambahadur Yadav,
Murgibai Chawl,
Waldhuni, Ashok Nagar,
Kalyan,
Dist. - Thane. ...Applicant

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan. ...Respondent

6. O.A. No.250/87.

Shri Vijay Nath Ramdulare,
C/o.Lalji Yadav,
Ramnath Yadav Chawl, Shivaji Nagar,
Wakadi Waldhuni, Badlapur Road,
Kalyan. ...Applicant

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan. ...Respondent

7. O.A. No.252/87.

Shri Kapildev R.Singh,
C/o.Rambahadur Yadav,
Waldhuni,
Murgibai Chawl,
Ashok Nagar, Kalyan,
Dist. - Thane. ...Applicant

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan. ...Respondent

8. O.A. No.272/87.

Shri Vedvyas Singh,
C/o.Shri Ramprasad Yadav,
Murgibai Chawl, Ashok Nagar,
Waldhuni,
Kalyan,
Dist. - Thane. ...Applicant

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan.

...3.

9. O.A. No.281/87.

Shri Rohidas Ramchandra Firke,
R/o.Rajdhan Building,
Ganesh Nagar, Shivaji Path,
Dombivali West,
Tal. Kalyan. ...Applicant

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan. ...Respondent

10. O.A. No.282/87.

Shri Shiv Pujan Prasad,
C/o.Shri Shiv Narain Yadav,
Teen Lakdi, Igatpuri,
Post Igatpuri,
Dist. - Nasik. ...Applicant

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan. ...Respondent

11. O.A. No.308/87.

Shri Amarnath Singh,
C/o.Shri Rambahadur Yadav,
Murgibai Chawl, Ashok Nagar,
Waldhuni, Kalyan,
Dist. - Thane. ...Applicant

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan. ...Respondent

12. O.A. No.362/87.

Shri Subhash Udaybhan Burewar,
C/o.Shri Ashok P.Wasamwar,
"Atul Building", Rajiv Nagar,
Dombivali (West),
Dist. - Thane. ...Applicant

V/s.

Divisional Electrical Engineer,
Traction Department,
Central Railway,
Kalyan.

Coram: Hon'ble Vice-Chairman Shri B.C.Gadgil,
Hon'ble Member(A), Shri P.S.Chaudhuri.

Appearances:

1. Shri A.N.Chaudhari, advocate for all the applicants.
2. Shri R.K.Shetty, counsel for the Respondents.

ORAL JUDGMENT:

(Per Shri B.C.Gadgil, Vice-Chairman) Dated: 10.10.1988.

These twelve matters can be considered by one common judgment as the controversy is practically concluded by the judgment passed by this Tribunal on 14.8.1987 in Original Application No.219/86 and other connected matters and also our judgment dated 17.8.1988 in Original Application No.247/87 and other connected matters. We may at this stage state that in the earlier set of matters viz. Original Application No.219/86 and other connected matters we quashed the termination of service and directed the reinstatement of the various applicants. The Railway Administration had filed a Review Petition before the Tribunal (viz. Review Petition No.34/87 and other connected Review Petitions) and the said review petition was dismissed by us on 17.11.1987. The Railway Administration had preferred a Special Leave Petition in the Supreme Court against the dismissal of the said Review Petition and the Supreme Court had dismissed the Special Leave Petition. When the second set of matters (viz. O.A. No.247/87 and other connected matters) was decided by us we relied upon the decision in the earlier set (viz O.A. No.219/86 and other connected matters).

2. It is not necessary to give the facts of each of these cases. Suffice it say that the applicants were working as Casual Labourers. The department has taken a decision that while employing Casual Labourers preference

should be given to those who have previously worked as such and whose services were terminated for want of work. The contention of the respondents is that the applicant has produced a false Casual Labour card showing that he had previously worked with the Railway Administration and on that basis these applicants secured employment.

3. The respondents had issued a notice to each of these applicants making an allegation that the applicant had produced a false casual labour card. The explanation of the applicants were called and the applicants gave their explanation. However, without holding any detailed departmental inquiry the services of the applicants were terminated. The details in this respect are mentioned below in a tabular form:

O.A. No. & Name of the applicant	Date of entry in service	Date of notice by Rlys.	Date of reply given by the applicant	Date of termination
(1)	(2)	(3)	(4)	(5)
1) O.A. No.131/87				
Shri P.N.Chowdhary	8.3.83	5.1.87	18.1.87	3.2.87
2) O.A. NO.243/87				
Shri Rajeshwar Yadav	20.7.84	31.1.87	11.2.87	24.3.87
3) O.A. No.244/87				
Shri S.C.Singh	10.12.83	31.1.87	11.2.87	29.3.87
4) O.A. No.245/87				
Shri Shivnath Prasad	3.4.84	29.1.87	11.2.87	26.3.87
5) o.a. no.246/87				
Shri R.B.Yadav	3.4.84	31.1.87	11.2.87	28.3.87
6) O.A. No.250/87				
Shri Vijaynath Ramdular	29.6.84	28.1.87	11.2.87	20.3.87
7) O.A. No.252/87				
Shri K.R.Singh	3.4.84	31.1.87	11.2.87	26.3.87

(1)	(2)	(3)	(4)	(5)
8) O.A.No.272/87				
Shri V.V.Singh	30.11.83	28.1.87	11.2.87	232.87
9) O.A.No.281/87				
Shri R.R.Firke	26.9.84	13.3.87	3.4.87	-
10) O.A. No.282/87				
Shri S.Prasad	3.4.84	29.1.87	4.2.87	4.3.88
11) O.A. No.362/87				
Shri Amarnath Singh	17.3.87	28.1.87	11.2.87	19.3.87
12) O.A. No.362/87				
Shri S.U.Bhurewar	3.9.82	13.3.87	22.4.87	-

4. As far as O.A. No.131/87 is concerned we granted stay of the proposed action on the basis of the notice. However, the services of the applicant were terminated on 3.2.1987, but he has been reinstated in service on 5.2.1987. Termination of service has not been ordered in respect of applicants in Original Applications No.281/87 and 362/87 as we have granted stay restraining the respondents from taking any action on the basis of notices.

5. As far as the other applications are concerned the respondents have terminated the services of the applicants. The allegation of the respondents is that they tried to serve the termination order on the applicant. However, each of the applicants evaded such service and ultimately the termination order was pasted on the notice board. The date of pasting of the order on the notice board is not mentioned by the respondents in their reply but we are sure that the respondents would be able to give that date from their files.

6. When these matters were argued before us by Shri R.K.Shetty for the respondents has filed an application raising various contentions. It is not necessary to enumerate those contentions inasmuch as contentions of this very type

had been raised before us when we decided O.A. No.247/87 and other connected matters and we rejected all those contentions. Shri Shetty stated that in addition to those contentions he has also prayed that the respondents should be permitted to examine witnesses before the Tribunal. In our opinion, such prayer is not permissible inasmuch as we have to find out as to whether the termination of services on the ground of alleged mis-conduct by producing a false labour card is legal and proper.

7. This Tribunal has taken a decision in the above two sets of matters that such termination is not legal. The necessary consequence is that all the applicants whose services have been terminated would be entitled to reinstatement in service with all back wages. Hence we pass the following order:

<u>ORDER</u>

1. Applications No.131/87, 281/87 and 362/87 are allowed. The respondents are restrained from taking any action on the basis of the notice issued to each of the applicants unless a departmental inquiry as contemplated by the Railway Rules is held against them.
2. Original Applications No.243/87, 244/87, 245/87, 246/87, 250/87, 252/87, 272/87, 282/87 and 308/87 are allowed. The termination of the services of each of these applicants is quashed. The respondents are directed to reinstate these applicants in service and to pay all the arrears from the date on which the said termination has been given effect to by pasting the termination order on the notice board. Period of absence, if any, immediately before the said pasting of the order on the notice board shall be dealt with according to the rules by granting leave as is due/admissible. These orders should be complied expeditiously, say within a period of two months from today.

...8.

3. We would however, make it specifically clear that this judgment would not prevent the Railway Administration from holding a departmental inquiry in respect of these applicants as prescribed by the rules and passing appropriate orders on the basis of the evidence adduced therein.

4. Parties to bear their own costs of this application.

8. At this stage Shri R.K.Shetty made a statement that the respondents may be given some time as the respondents are thinking of filing a Special Leave Petition in the Supreme Court. No orders in this respect are necessary as our above mentioned directions show that the respondents are given time to comply with this judgment in two months.

9. This judgment should be placed in O.A. No.131/87 and a copy thereof kept in the record of the remaining eleven applications.