

(9)

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH

O.A.265/88, O.A.266/88, O.A.267/88 & O.A.633/88

(1) Chandrakant Tukaram Godse,
Gangaram Marwadi Chawl,
Ladisfile, Ashoknagar,
Akola.

.. Applicant in
O.A.265/88

(2) Jagdish Baburao Wani,
Panchshil Nagar,
Kharab Road,
Akola Tq.&Dist.
Akola..

.. Applicant in
O.A.266/88

(3) Namdeo Tukaram Patil,
Ashoknagar,
Akotfile, Awastai Chawl,
Akola.

.. Applicant in
O.A.267/88

(4) Pratap Ramrao,
Akbarplots,
Akotfile,
Akola.

.. Applicant in
O.A.633/88

vs.

(1) Chief Signal Inspector,
Central Railway,
Akola,
Tq.& Dist. Akola.

(2) Divl. Railway Manager,
Central Railway,
Bhusaval.

(3) Union of India
through
General Manager,
Central Railway,
Bombay V.T.

.. Respondents in
all the above
four applications.

Coram: Hon'ble Shri Justice U.C. Srivastava,
Vice-Chairman.

Hon'ble Shri M.Y. Priolkar,
Member(A)

Appearances:

1. None for the
Applicants.
2. Mr. J.G. Sawant
for the
Respondents.

ORAL JUDGMENT:
(Per U.C. Srivastava, Vice-Chairman)

Date: 11-11-1988

As identical questions are involved
in all these applications they are being disposed of
together.

2. 11 these applicants were appointed as montly rated casual labour on various dates from the year 1979 and they were required to do the work of maintenance of signals and the work which has been assigned to them is a permanent nature, a fact which has not been disputed. It appears that the applicants appointment were discontinued from time-to-time and they were depended on the sanction received and they were continued to work like that for several years. In the meantime they were also medically examined. However, by order dtd. 3-3-1987 their services were discontinued.

3. The applicants being aggrieved approached this Tribunal stating that when they attained a particular status their services should not ~~be~~ have been terminated without holding any enquiry that too in violation of Section 25-F of Industrial Disputes Act and that their juniors were retained yet the applicants service were terminated.

4. The respondents have resisted their claim saying that although they were appointed as monthly rated casual labour but the posts were sanctioned off and on. It has been admitted that the new persons or persons who were appointed subsequently has been retained in the service. For that the explanation is that they are members of SC and ST which entitled them preferential clai and those who were appointed are either SC/ST or from special quota. This fact makes it clear that vacancies were there and persons were appointed after the termination of service of the applicants. Although the applicants were not entitled the notice as defined under Section 25-F of the Industrial

Disputes Act but the compensation could have been paid but the same has not been paid. But on that event termination order cannot be said to be invalid in view of the fact that sanction was not available. Even it could be said that ~~the~~ of course no notice were required yet the ~~terminations~~ terms of section 25-F were not followed which makes the termination order invalid but the applicants cannot get the post automatically as ~~the~~ sanctions were not received for the said posts. The work ~~is~~ of permanent nature and appointment against the post ~~xxxxxxxxxxxx~~ subsequently made obviously must have been made during these years. Thus accordingly these applications deserves to be allowed in part inasmuch as in case the persons junior to the applicants were retained in service or new appointments were made the applicants shall be reinstated back in service within a period of two months but not in preference to any seniors and in that event if they are continued in service they will not get any backwages for the said period. These four applications are disposed off accordingly with no order as to costs.