

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

Original Application No.195/86

Prakash S.Wanjari,
C/o.Shri S.N.Wanjari,
Juni Shukrawari,
Telipura,
Nagpur - 440 009.

.. Applicant

v/s

1. The Additional General Manager,
Central Organisation for
Railway Electrification,
Old Loco Shed,
Allahabad.
2. Assistant Personnel Officer,
Central Organisation for
Railway Electrification,
Old Loco Shed,
Allahabad.
3. Controller of Stores,
Central Organisation for
Railway Electrification,
Old Loco Shed,
Allahabad.
4. Senior Store Officer - I,
Central Organisation for
Railway Electrification,
Old Loco Shed,
Allahabad.
5. Chief Project Manager,
Railway Electrification,
D.R.M.Building,
Second Floor,
P.B.No.77,
Nagpur.

.. Respondents.

Coram: Hon'ble Vice-Chairman B.C.Gadgil

Hon'ble Member(A) J.G.Rajadhyaksha

Appearance:

1. Mr.Deshpande,
Advocate for the applicant.
2. Mr.R.K.Shetty,
Advocate for the Respondents.

ORAL JUDGEMENT
(Per B.C.Gadgil, Vice-Chairman)

Date: 29-4-1987.

The applicant who was in railway service has
a grievance about his termination of that service.

2. The applicant was employed as semi-skilled

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labourer in the Railway Electrification Organisation at Nagpur since 19-6-1982. His services were terminated by a notice dated 22-1-85 vide Annexure 'A' and 'B' to the petition. The grievance of the applicant is that this termination is bad.

3. The applicant was appointed as a semi-skilled casual labourer. There was a problem that was being faced by such Casual labourers regarding their termination of services. Initially the Railway Administration prepared a scheme on 1-6-84 that the casual labourers would be given temporary status in a phased programme. About the applicant, it can be said that as a casual labour he has completed 360 days after 1-1-1984 and hence he was entitled to have temporary status from 1-1-1987. This scheme was modified by the Supreme Court by its judgment dtd.18-4-1985. As far as the applicant is concerned, that modification does not make any difference. Suffice it to say that the applicant would be entitled to have temporary status from 1-1-1984 or the date on which he would be completing 360 working days. During the course of the arguments, there was some dispute as to whether he was entitled to have such temporary status. However, after reading the original scheme dated 1-6-1984 as modified by the Supreme Court order, it is quite clear that the applicant is entitled to have that temporary status.

The important question, however, is whether the applicant who has so acquired temporary status has any valid grievance about the termination of services by a notice dtd. 22.1.1985. The said notice states that the services of the applicant along with one more employee

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are being terminated with effect from 21-2-85 due to shrinkage of cadre. It is not in dispute that the applicant has been given one month's notice and is paid the retrenchment compensation.

It is true that the scheme prepared by the Railway Administration, as modified by the Supreme Court, is for the purpose of giving beneficial treatment to the casual employees whether skilled or semi-skilled. However, the Supreme Court has directed that the railway administration should prepare a seniority list so that last come may be asked to go first if the services are not required. The Supreme Court by its order dated 11-8-86 vide Exhibit 3 (collectively), ~~Pages~~ ^{Pages} 22 to 32 of the reply, has clarified the position as follows:-

"We are of the view that the Scheme prepared by the Railways setting out the list of project casual labour with reference to each department in each Division and also in regard to each category, namely, skilled, semi-skilled and unskilled, is in compliance with the judgment and order dated 18-4-85...."

Thus the seniority list is to be prepared (in each division) department wise. It was urged by Mr. Shetty that the department in which the applicant was working was the Stores Department. According to him, this Stores department has been shifted to Allahabad and it is for this reason that there was a shrinkage of the cadre. He further contended that this has necessitated the termination of the applicant's service.

Mr. Deshpande contended that in case of such shrinkage the applicant should have been accommodated in the Stores Department in the Division. However, Mr. Shetty contended that there were only three semi-skilled

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casual labourers in the Stores Department and it is for this reason that the service of all the three employees were terminated. At one stage, we were thinking of asking the railway to consider the transfer of the applicant from Nagpur to Allahabad in the said Stores Department so shifted to Allahabad. However, Mr. Shetty informed that even after such transfer of department, there had been no additional recruitment of semi-skilled labourers at Allahabad. It is in this way he states that there was a shrinkage in the cadre. In view of this position, we think that it will not be possible for the applicant to claim reinstatement in service even though we have arrived at a conclusion that he has attained temporary status.

The result therefore is that the application fails. There will be, however, no order as to costs.

B.C.Gadgil
(B.C.GADGIL)
Vice-Chairman

(J.O.RAJADHYAKSHA)
(J.O.RAJADHYAKSHA)
Member (A)