

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW BOMBAY BENCH, NEW BOMBAY

O.A. Nos. 243/89, 244/89, 255/89, 256/89 & 257/89

1. Feroz Khan Rasid Khan,
residing in front of Agakhan Wada,
Shivaji Nagar,
Bhusawal Applicant in
OA 243/89
 2. Framod Shankar Sukhadhane,
residing at C/s. Shankar
Sukhadhane, Opp. Akbar Touring
Takies, Old Ordnance Road,
Bhusawal. Applicant in
OA 244/89
 3. Pradip Kumar Narkar,
residing at C/o. Railway
Crt. No. I/330, 'C' Road,
40 Blocks, Bhusawal, Applicant in
OA 255/89
 4. B. Shrinivas Rao,
residing at Belli Shop Crt.,
Motibag, Kadvi Chowk,
Gondia Applicant in
OA 256/89
 5. Sharad Gulabchand Jaiswal,
residing near Nahata Lal Mill,
15 Block, Bhusawal. Applicant in
OA 257/89

v/s

1. Union of India through
General Manager,
Railway Electrification Project,
Near Loco Shed,
Allahabad, U.P.
 2. Dy. Chief Electrical Engineer (II),
Railway Electrification Project,
Ajni, Nagpur - 3. ... Respondents

CORAM : Hon'ble Member (A), Shri M.Y.Friolkar
Hon'ble Member (J), Shri T.C.Reddy

Appearances:

Applicants in person.
Mr. J.G.Sawant, Advocate
for the respondents.

ORAL JUDGEMENT:

Dated : 24.7.1991

[Per. M.Y. Priolkar, Member (A)]

All these five cases namely O.A. Nos. 243/89, 244/89, 255/89, 256/89 & 257/89 are taken up together as the point involved is the same.

2. According to the applicants who were monthly rated casual workers of the railways, had worked with the railways long enough to have attained temporary status but their services have been illegally and arbitrarily terminated without following the ^{prescribed} procedure under the Railway Servants Discipline and Appeal Rules, 1968 as required, on the ground that they had obtained appointment as Casual Labourers on production of bogus service cards.

3. The respondents have denied in their written statements that the applicants had attained temporary status prior to the termination of their services as alleged. However, the reason given by the respondents for continuing the temporary status is that casual Khalasi is to be granted temporary status only after the service card has been verified and since in the instant case it was found on verification that the service cards were forged there was no question of granting them temporary status. We are not able to agree with this contention, since under the rules, casual workers employed in projects, ^{which is} ~~as~~ in the case with the present applicants, are deemed to have attained temporary status after completing 360 days of continuous service as casual workers. The respondents have not disputed that the applicants have at their credit this minimum period of service for attainment of temporary status. We have to hold, therefore that the applicants services should not have been terminated without following ^{the} due procedure prescribed for termination under the Railway Servants Discipline and Appeal Rules.

4. In a large number of ^{identical} ~~similar~~ applications by employees who were similarly situated we have held that employees whose services have not been lawfully terminated by holding enquiry ~~they~~ are entitled to reinstatement. One such judgements is dated 20.7.1990 in O.A. 250/88 and 20 others delivered by a Bench where one of us (M.Y.Priolkar) was a Member. We are inclined to follow the same judgement

in the present cases also. Accordingly we direct that the applicants should be forthwith reinstated if they offer themselves for employment and that they should get continuity of their services for the period they were out of service, but they would not get any back wages for the same period for the present. Regular enquiry as prescribed under the Railway Servants Discipline and Appeal Rules should be held against them for the charge of securing employment on the basis of forged service cards. Back wages would be admissible to them, ^{subject to rules} ~~They are exonerated if the charge is~~ only if such enquiry is decided in their favour. The applicants having acquired temporary status as Casual Labourers would be entitled to prefer appeals if the orders passed in the enquiry go against them. There will be no order as to costs.