

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No: 798/89

~~Transferred Application No:~~

DATE OF DECISION 16.12.92

Shri Balu Baliram Wagbule and Petitioner  
7 others.

Shri S.B. Kasar Advocate for the Petitioners

Versus

Union of India and others Respondent


Shri P.R. Pai. Advocate for the Respondent(s)

CORAM:

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

The Hon'ble Shri V.D.Deshmukh, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
  2. To be referred to the Reporter or not ?
  3. Whether their Lordships wish to see the fair copy of the Judgement ?
  4. Whether it needs to be circulated to other Benches of the Tribunal ?
- } No

  
(M.Y. PRIOLKAR)  
MEMBER (A)

NS/

(2)

CENTRAL ADMINISTRATIVE TRIBUNAL  
BOMBAY BENCH

Original Application No.798/89

Shri Balu Baliram Waghule  
and 7 others.

.. Applicants

V/s.

Union of India through  
The General Manager  
Central Railway,  
Bombay.

The Divisional Railway Manager  
Central Railway  
Bhusaval.

... Respondents.

CORAM: Hon'ble Shri M.Y.Priolkar, Member (A)  
Hon'ble Shri V.D.Deshmukh, Member (J)

Appearance :

Shri S.B.Kasar, counsel  
for the applicant.

Shri P.R. Pai, counsel  
for the respondents.

ORAL JUDGEMENT

Dated: 16.12.92

{ Per Shri M.Y.Priolkar, Member (A) }

The applicants in this case were initially engaged as Casual Labourers in the Central Railway. Admittedly all the applicants have completed 120/180 days as casual labourers and they were taken on monthly rate of pay after having been screened and also found to be medically fit. It is also not in dispute that under para 2501 of Indian Railway Establishment Manual they have acquired temporary status which also carries with it, under the para 2511, the protection under Railway Servants (Discipline and Appeal) Rules. Evidently, their services could not therefore have been dispensed with without following the procedure prescribed under the Discipline and Appeal Rules. The grievance of the applicants is that their services have been illegally terminated without giving a proper notice or any letter of termination and without any proceedings under Discipline and Appeal Rules. The learned counsel for the applicants stated that even if the applicants are considered to be

not covered under the Industrial Disputes Act, they had acquired temporary status under Rule 2501 of Indian Railway Establishment Manual and were entitled to all the rights and privileges granted to employees of such status under Rule 2511.

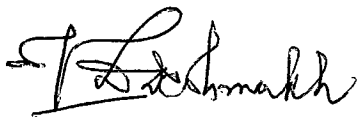
2. In the reply filed on behalf of the respondents it is stated that the services of these applicants were terminated after placing a notice on the Notice Board since there was no sanction for their continuance as Casual Labourers or as monthly rated casual labourers in the Carriage and Workshop Department. It is stated that they cannot be treated as temporary employees but it has not been explained in the reply as to why these employees were not be treated as employees who had acquired temporary status, under Rule 2501 of Indian Railway Establishment Manual. Even today, during the course of hearing, no explanation was forthcoming from the respondents as to why the applicants were not granted temporary status inspite of the above specific provision in the Indian Railway Establishment Manual.


3. The learned counsel for the applicant has produced for our perusal a Judgement dated 4.5.87 of Central Administrative Tribunal, Ahmedabad in the case of Nagbha Navalsingh and others vs. Union of India and others, (1987) 5 ATC 179 , in which it has been held that the termination of employees with temporary status by an innocuously worded order <sup>is</sup> ~~in~~ the result of non-application of mind and violative of the Rules and principles of natural justice. Admittedly, in the present case, no seniority lists have been prepared of such employees and it is not even the case of the respondents that the termination of the services of the employees was on the basis of comparative seniority of casual employees. Rule 2302 of the Indian Railway Establishment

Manual clearly prescribes the manner and methodology of terminating service of a temporary Railway servant and admittedly, the procedure prescribed having not been carried out, the termination is void and invalid.

4. In these circumstances, the impugned orders of termination of the petitioners are liable to be quashed and set aside. We allow the application and direct the Railway Administration to re-instate them and treat them to be in continuous service. They will not be entitled to any payment of backwages for the period they have not actually worked but they will be entitled to the benefit of seniority for regularisation of their services.

5. There shall be no order as to costs.

  
(V.D. DESHMUKH)  
MEMBER (J)

  
(M.Y. PRIOLKAR)  
MEMBER (A)

NS/