

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW.

A21

O.A. NO. 256/CF 1990

Rajiv Kumar Pandey

.....

Petitioner

Versus

Union of India and others

Ø Respondents.

I N D E X

ANNEXURE XXXXX

COMPILATION NO. II

SL. NO.	DESCRIPTION OF PAPERS	PAGE NO.
1.	Annexure - 1 Chart showing details of Applicants.	1-00
2.	Annexure - 2 Letter dated 6th October 1981.	2-00
3.	Annexure - 3 Letter 16th June, 1983.	3-00
4.	Annexure - 4 Notice dated 4th August 1983.	4-9
5.	Anexure - 5 Letter dated 24.2.84 written by the General Manager to the Respondent No.2.	10-00
6.	Annexure - 6 Letter dated 7.3.84.	11-00
7.	Annexure - 7 Letter dated 27th July 1989.	12-00

(O.P. SRIVASTAVA)
ADVOCATE

COUNSEL FOR THE APPLICANT.

LUCKNOW DATED:

17-8-1990.

O.A. No 190

①

A22

RAJIV KUMAR PANDEY PETITIONER

vs

UNION OF INDIA & OTHERS OPP. PARTIES

ANNEXURE — 1

- (i) Name - Rajiv Kumar Pandey
- (ii) Father's Name - Sri S. R. Pandey
- Initially Appointed
(iii) as Substitute Casual Labour → In the year 1900
- (iv) Services were
Terminated → 4th Sept 1901

ATC
[Signature]

— राजीव कुमार

In The Central Administrative Tribunal Allahabad (2)
Circuit Bench, Lucknow.

Rajiv Kumar Pandey

CA. - - - 1990.

U.O.D. for.

Applicant
Respondent.

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(2)

ANNEXURE - 2.

Northern Railwaymen's Union

(Registered and Recognised)

AFFILIATED TO: ALL INDIA RAILWAYMEN'S FEDERATION AND HIND MAZDOOR SABHA

Phone: { Office: 516
Res: 517

Near Guard's Running Room
Charbagh,

Lucknow. Dated 6.10.1981

Ref. NRMU / 51/81.....

The Divisional Railway Manager,
Northern Railway,
Lucknow.

Dear Sir,

Reg: Illegal lay off and retrenchment of 439 substitutes of Loco shed, N. Railway, Lucknow.

....

It is to inform you that 439 substitutes who are members of this union have represented that they have ~~not~~ not been given duty since 4th October, 1981. The enquiries made in this connection revealed that Asstt. Mech. Engineer, N. Rly., Loco Shed, Lucknow has passed unlawful orders of retrenchment without following normal railway rules and provisions of Industrial Dispute Act, 1947.

would

The union/therefore request that all substitutes who are temporary railway servant be allowed duty forth-with and in case there is some reduction in establishment the junior most men be retrenched -ed allowing them compensation etc. as per I.D. Act 1947 and the issue may be discussed in an informal meeting on any date suiting you.

Yours faithfully,

(V.P. Trivedi)
Divisional Secretary.

ATC

[Signature]

राजीव कुमार

In The Central Administrative Tribunal, Allahabad,
Circuit Bench, Lucknow.

Rajiv Kumar Pandey - MFC Applicant
U.O. and others - Respondents A24

ANNEXURE - 3,

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NORTHERN RAILWAY

O.N.Endley,
O.S.D./I.R.

Headquarters Office,
Baroda House,
New Delhi.

Dt. 16 June, 1983.

My dear Chatta,

Re: Strike notice served on the Sr. M.E./N.Rly., Lucknow by the
Uttar Railway Karmchhari Union Lucknow over alleged illegal
termination of services of 207, 110 and 24 substitute
casual labour of Loco Shed Alambagh, Lucknow.

Ref: Your office letter No. 443-E/WS/PWA/81 dated 28.5.83.

The opinion of the Railway Advocate has been accepted by Law-
Officer.

Further action in the matter should be taken on Top priority Repeat
Top priority in hte light of instructions contained in Board's letter No.
E(LL)/82AT/ID/1-39 dated 2.4.83 (Copy enclosed for ready reference)

It is reiterated that Board's instructions in para 3 are quite cate-
gorical, and any further delay in finalising this case in the light of
these instructions will be viewed very seriously by the Railway Board.

You are, therefore, requested to issue necessary directives to the
Officers and staff concerned that this case should be dealt with, without
any further loss of time.

I shall be obliged if compliance of this case is reported to this
office by 30th. of this month latest.

DA/1.

Yours Sincerely,

Sd/-

(O.N.Endley)

Shri H.S.Chatta,
Divisional Rly. Manager,
Lucknow.

Copy to DRM/Bikaner for information. Similar action should be taken in case
of retrenched casual labour on his division. A copy of Board's letter
quoted above is also enclosed for ready reference.

DA/1.

ATC



राजीव कुमार

In The Central Administrative Tribunal, (4) Allahabad,
Circuit Bench, Lucknow.

Rajiv Kumar Pandey - Applicant
V.O.P. and others - Respondents.

ANNEXURE - 4

(4)

Phone: { Office: 516
Res. 517

Northern Railwaymen's Union

(Registered and Recognised)

AFFILIATED TO: ALL INDIA RAILWAYMEN'S FEDERATION AND HIND MAZDOOR SABHA

Near Guard's Running Room
Charbagh,

Ref. NRMU / ...51/81....

Lucknow. Dated... 1/9/83....

- (1) Union of India
Through the General Manager,
N.Rly., Baroda House,
New Delhi.
- (2) The General Manager,
Northern Railway,
Baroda House,
New Delhi.
- (3) The Divisional Railway Manager,
Northern Railway,
Lucknow.

Dear Sir,

Re: Illegal lay off and retrenchment of 439
Substitutes of Loco shed, N.Rly., Lucknow.

Your kind attention is invited to our correspondence resting with our letter dated 12/1/83 and notice dated 4.8.1983. It is regretted that such an important issue could not be decided in such a long period. Despite our objections junior-most casual labourers have been allowed duty and our men have been ignored.

In a case no reply is received within a week I have no alternative except to file a suit as per notice which is unfortunate. Copy of notice dt 4.8.83 is enclosed.

Yours faithfully,

for ready reference.

(V.P. Trivedi)
Divisional Secretary.

ATC

[Signature]

राजीव कुमार

(5)
A26

4-6-1983

NOTICE

On behalf of Shri *Rudhey Shyam* - - - - - and ⁴³⁸others
as detailed in Annexure 'A' D/o Shri V.A. Trivedi,
Divisional Secretary, Northern Railway Men's Union
Chorbagh - - - - - (here office address)
- - - - - Lucknow

Through :- Shri V.P. Trivedi
The Divisional Secretary
Northern Railway Men's Union
Chorbagh - - - - - (office address)
Lucknow.

To

1. The Union of India
Through the General Manager,
Northern Railway,
Headquarters Office,
Baroda House, New Delhi.
2. The General Manager,
Northern Railway
Headquarters Office,
Baroda House, New Delhi.
3. The Divisional Railway Manager,
Northern Railway,
Divisional Railway Manager's Office,
Hazratganj, Lucknow.

Dear Sir,

Under the instructions from and on behalf of
the above named Shri *Rudhey Shyam* - - - - - ⁴³⁸and others
as detailed in Annexure 'A' I give you this notice to
inform you as under :-

1. That the aforesaid employees are substitutes
and have attained the status of temporary

contd..2

AFC *[Signature]*

राजीव कुमार

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atoff. They are the employees working under the Loco Foreman, a servant of the Union of India (Central Govt.) Northern Railway, Loco Running Shed, Lucknow.

2. That the Railway organisation is an 'Industry' and the Loco Running Shed, Northern Railway Lucknow is an 'Industrial Establishment.'
3. That I am the Divisional Secretary of the Northern Railway Men's Union which is a registered trade union under the Act 1926 and the aforesaid employees are the members of this organised Union.
4. That the aforesaid employees are the workmen within the definition under section 2 of the Industrial Dispute Act 1947.
5. That the names of the above workmen are borne on the muster-roll of the above industrial establishment of the employers and their services are continuous. But they have been laid off with effect from 4th Oct-1971 illegally, without assigning any reason and without any prior notice.
6. That the condition and circumstances did not warrant for a lay-off in the industrial establishment. But they have been arbitrarily laid-off by the employers.

contd..3

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7. That the above workmen have dolly been attending their place of work for duties since 4/10 Oct 1981 and they were always ready and are still willing to work but they have not been given duty by the employers despite repeated requests.
8. That the above named workmen who are laid-off even to this date have neither been paid their wages nor any compensation for the period laid off from 4/10 Oct 1981 (date) to this date.
9. That the above workmen have subsequently been retrenched by the Divisional Railway Manager, Northern Railway Lucknow without any prior notice of onemonth in writing as required under section 25F of the Industrial Disputes Act 1947. They have also not indicated any reasons for their retrenchment.
10. That the workmen have also not been paid their wages in lieu of such notice for the period of notice.
11. That the workmen junior to the aforesaid workmen who were retrenched by the employer have been put back to duty with effect from 3-8-83 ignoring the rightful and legal claim of the above workmen.
12. That the employers have changed the service condition of the workmen by reducing the

Contd..4

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राजीव कुमार

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number of employed person, by employing the junior workmen ignoring the rightful, valid and legal claim of the above workmen superseding them and thereby affecting their seniority and wages without giving to the workmen a notice in the prescribed manner.

13. That the laying off the above workmen without sufficient cause, without conditions warranting the lay-off, is illegal and is not sustainable. Their retrenchment is also illegal, invalid as the same is without any prior notice of one month and without sufficient reasons. The employment of the junior workmen, ignoring the legal and valid claim of employment of the above named workmen with full benefits of wages right from 4/10 Oct 1981, they are laid off, till they are given duties is illegal and against the provisions of the Industrial Dispute Act 1947.
14. That an industrial dispute ensued between the employers and the above workmen for their non-employment, non-payment of their due wages and for non-treating the period of lay-off as duty for all purposes and benefits.
15. That the cause of action accrued to my members, to the above workmen when they were illegally laid-off on 4/10 Oct 1981 (date) and were subsequently retrenched from service without any

contd..5

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राजीव कुमार

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prior notice of one month or payment of their wages in lieu of notice, on 3-8-83 when their juniors were put back to duty ignoring the claim of the above workmen who are very senior to them.

I accordingly give you this notice requiring you to consider the whole case of my members, the above workmen and after examining their case in the light of para 1 to 15 above, put the above workmen to duty and also arrange payment of their wages from 4th Oct-1981 (date) to the date they are actually put back to duty with all benefits and privileges treating them to continue in service and regularise in the intervening period as duty for all purposes within 2 months from the date of receipt of this registered notice failing which my the workmen will be painfull compelled to seek their redress against you at your risk and expenses in the court of law.

LUCKNOW

DATE: 4-8-1983

Yours faithfully,

(V.P. TRIVEDI)

Divisional Secretary
Northern Ry Man's Union
Lucknow

ATC

राजीव कुमार

In The Central Administrative Tribunal, Allahabad.
Circuit Bench, Lucknow.

Rajiv Kumar Pandey - vs -

U.O.I. Forc.

O.A.

Applicant

Respondents.

ANNEXURE-5

(10)

NORTHERN RAILWAY

No.381E/I-VI/LS/LKO-EVI

The Divl.Rly.Manager,
Northern Railway,
Lucknow.

Headquarters Office,
Baroda House,
NEW DELHI.

Dated 24-2-1984.

Sub:- Engagement of substitutes in the Lucknow
Loco Shed.

Ref:- Your Office letter No.432-E/WB/PWA/81
dated 29-1-1984.

It is noted that the required checks for verifying the genuineness of casual labour is in progress and is expected to be completed shortly. Please arrange to have these checks carried out as early as possible preferably by 1-3-1984.

2. Only such of the Casual Labour/Substitutes, who after thorough scrutiny of the records, finger prints, etc., are found to be genuine, should be engaged and/or continued. Out of 151 Casual Labour who were re-appointed some months ago, if some are not found bonafide persons on check and finger prints scrutiny etc. these should be discharged after following the provision of Industrial Dispute Act. In this connection, Law Officer has opined that under section 33 of the Industrial Dispute Act, no such workman shall be discharged or dismissed, save with the express permission in writing of the authority before which the proceeding is pending. Therefore, the persons who are not found genuine after exercising the check, such as thumb impression etc. can be discharged after obtaining the permission from the Tribunal by moving an application under section 33 of the Industrial Dispute Act.

3. Seniority of the bonafide casual labour for purpose of screening should be as per the Printed Circular No.7850 and the criteria shall be on the total number of days of casual labour service, continuous or intermittent, that the persons has at his credit. While screening the bonafide casual labour, this aspect will be kept in view and those who are senior, given preference over others, apart from other standard considerations such as health, fitness, etc.

4. You can re-engage these bonafide casual labours in Class IV against available vacancies on your Division.

Sd/- M.M.Agarwal
for General Manager (P).

True copy
fslh.
27.3.84

APC



राजीव कुमार

In The Central Administrative Tribunal, Allahabad.
Lucknow Bench, Lucknow.

Rajiv Kumar Pandey

V.O.I. for

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Applicant

Rest. dets

EXHIBIT - 6

(11)

NORTHERN RAILWAY

CONFIDENTIAL
No.E/WB/ID/CL/83

DIVISIONAL OFFICE
LUCKNOW

Divl. Secretary,
N.R.M.U.
LUCKNOW.

Dated 7th ^{May} ~~Feb~~, 84

Dear Sir,

Sub:- Engagement of Substitutes in the
Lucknow Loco Shed.

As discussed, a copy of decision conveyed
vide General Manager (P)/N.Rly./New Delhi letter No.
381E/1-VI/LS/LKO-EVI dated 24-2-1984 is enclosed.

DA: One (as above)

Yours faithfully,

light
for Divl. Railway Manager,
LUCKNOW

Atc

[Signature]

राजीव कुमार

In The Central Administrative Tribunal Allahabad, Circuit Bench, Lucknow
Rajiv Kumar Rand. - - - - -
V.O. for
V.P. Trivedi

Divisional Secretary
Northern Railwaymen's Union
Member Working Committee
All India Railwaymen's Federation

NRMJ/26(2)
No.....

ANNEXURE - 7

PHONE { Resl. : 517
Office : 518
Oeg. : 278
New Delhi : Rly-2801

Residence :
11-39/F, Railway Quarter,
Charbagh, LUCKNOW

Office :
Near Guard's Running Room
Charbagh, LUCKNOW

Dated 27.7.89

- (1) Sri Ambika Singh and
16 others.
- (2) Bipin Kumar S/o Sri Madan Ji.

Dear comrade,

Reg: Re-instatement

The case of Sri Ambika Singh was discussed as a policy where it was mentioned that junior employees who were laid off on 3.7.81/4.10.81 have been given job. The case of Shri Ambika Singh was being discussed continuously in the P.H.M. meetings and lastly it was discussed with D.R.M./LKO in an informal meeting on 13.3.89 where it was decided that the case will be put up to D.R.M. to review the case of Sri Ambika Singh and it was also agreed that if DRM allows duty to Shri Ambika Singh, cases of other 16 persons which were sent to DRM on 28.9.83 will also be decided at par.

It is regretted that DRM has no mode to reinstate any casual labour unless they bring order from the Court, though the genuineness of these cases has been admitted and he had no ground to reject them specially when so many juniors have been re-engaged.

Now, there is no remedy for you people except to take shelter of the Court.

Yours comradely,

(V.P. Trivedi)
Divisional Secretary

ATC

राजीव कुमार

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

M.P. NO. 32 of 1993 (L)

A34

Rajiv Kumar Pandey Applicant

VERSUS

Union of India and Others Respondents

O.A. NO. 256/90(L)

Fixed for 7.1.1993

Sir,

APPLICATION FOR LISTING THE CASE BEFORE
THE HON'BLE BENCH

On behalf of the applicant it is most respectfully submitted:-

1. That the above noted case was ordered to be listed before the Learned Dy. Registrar for completion of proceedings.
2. That the above noted case is being listed before the learned Dy. Registrar for completion of proceedings.
3. That despite several opportunities no counter reply on behalf of the Respondents has been filed till today.
4. That it appears that the Respondents do not want to file any reply.
5. That it is relevant to mention that the Original application No. 174/(90(L) (Ambika Singh Versus Union of India and others) filed by the other similar situated Substitute Casual Labours has been allowed by this Hon'ble Tribunal on 23.10.1992, a true copy of which is being filed herewith as Annexure-A to this affidavit.

WHEREFORE it is most respectfully prayed that this Hon'ble Tribunal may kindly be pleased to list the above noted case before the Hon'ble Bench for orders for the sake of ends of justice.

LUCKNOW DATED:
JANUARY 7, 1993.

(D.P. SRIVASTAVA)
ADVOCATE
COUNSEL FOR THE APPLICANT

F 35

ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH
LUCKNOW

O.A. No. 174 of 1990

Ambika Singh and Others

Applicants.

versus

Union of India & Others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Chavva, Adm. Member.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicants who were appointed as substitute casual labour have approached this Tribunal with a prayer for consideration of the applicants for appointment as regular class IV employees and the respondents be directed to consider the applicants in continuous service as Substitute Casual Labourers, Loco Shed, Alambagh Lucknow and further to direct them to take work from the applicants and pay them salary regularly.

Although the respondents have not filed counter affidavit from the facts stated by the applicant it comes out that the applicants were appointed in various years upto 4.9.81. Although the applicants have worked for more than 120 days, the details of which have been given by the applicants, the services were terminated on 4.9.91. Applicants made representation and the Secretary of the Union also espoused their cause. It was later on revealed that substitute's services have been terminated because of the bogus labour cards and substitutes were engaged in the order of seniority and also screened



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In the Central Administrative Tribunal, Allahabad
Bench Lucknow.

OA No. 256/1990

Rajiv Kumar Pandey Applicant

Versus

Union of India and others Respondents.

Reply on behalf of the Respondents:

Preliminary Objection/Short Reply.

1. That the applicant raised a dispute along with 208 persons, which dispute was referred to C.G.I.T. under section 10 of the Industrial Dispute Act for adjudication and numbered as 68/86 *Pram Kumar* and others Vs. Sr. D.L.E./N.Rly. The applicants name appeared at serial No. 41. The Central Government Industrial Kanpur decided the dispute in favour of the management and consequently the said case was dismissed and the award was published in Govt. Gazette by the Ministry of Labour New Delhi.
2. That the applicants of the said I.D. Case filed a writ petition challenging the award before Hon'ble High Court numbered as WP 2944 of 1989, *which is still pending.*
3. That the applicant having raised Industrial Dispute, cannot raise the same dispute before the Hon'ble Tribunal, through the present application and as such the application is liable to be dismissed on this point alone.

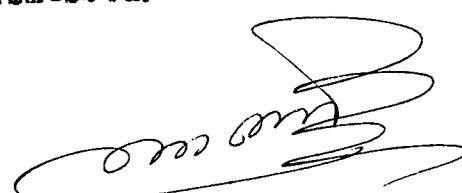
AS

4. That a copy of the award passed on 27.9.'88 is annexed to this reply as Annexure No.1.
5. That a detailed reply to the application is thus not required to be filed, unless the applicant denies the factum of having been a party to the Case ID No. 68/86 decided by C.G.I.T.Kanpur on 27.9.'88 vide award contained in Annexure No.1 to this reply.

But on the aforesaid facts and circumstances, the application is liable to be dismissed.

Lucknow

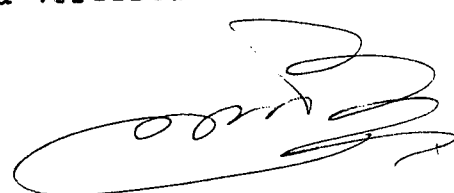
dated: 25.1.1993



For and on behalf of
Union of India.

Verification.

I, *Halje Mishra* working as *Asst Personnel Officer*
in the office of D. & L. Northern Railway Hazratganj
Lucknow competent and authorised to sign and verify
this reply do hereby verify that the contents of paragraph
1 to 5 of this reply are true to my own knowledge on
the basis of facts derived from record and legal advice.
Signed and verified this 25th. day of January 1993 at
Lucknow.



72 1051249

Before Shri Arjun Dev Presiding Officer
Central Government Industrial Tribunal cum
Labour Court, Lucknow.

Industrial Disputes Cases Nos. 68/86, 52/86 & 49/86 A38

In the matter of dispute between:

Divisional Vice-President,
Northern Railway Karamchari Union
IDA Loco Running Shed Colony Alambagh
LUCKNOW.

And

Sr. Divisional Mechanical Engineer,
Northern Railway
Hasratganj,
Lucknow.

In I.D. No. 68/86

1. The Central Government, Ministry of Labour, vide its notification No. L-41011/19/85-D.II(B) dt. 24th March, 1986, has referred the following dispute for adjudication to this Tribunal:

Whether the action of the Sr. Divisional Mechanical Engineer, Uttar Railway, in terminating Shri Pramod Kumar & 201 others workers from the dates given in list -1 is justified? If not, to what relief they are entitled to and from what date?

NOTES (Names of the 210 workers are mentioned in annexure-I, attached with the award)

2. The Central Government, Ministry of Labour, vide its notification No. 41011/(15)/85-D.II(B) dt. 27.2.86 has referred the following dispute for adjudication to this Tribunal:

Whether the action of the Sr. Divisional Mechanical Engineer, Uttar Railway, in terminating the services of Shri Rakesh Kumar & 142 other workers w.f. the dates given in the attached list is legal? If not, to what relief the workmen are entitled to and from what date?

NOTES (Names of 143 workers are mentioned in annexure-II attached with the award)

3. The Central Government, Ministry of Labour, vide its notification No. L-41011(9)/85-D.II(B) dt. 1986, has referred the following dispute for adjudication to this Tribunal:

Whether the termination of services of 44 workers (As per schedule-I) w.o.f. 4.9.81 and 3.10.81 by the Sr. Divisional Mechanical Engineer (loco) Northern Rly. Lucknow is legal justified? If not, to what relief the workmen are entitled to and from what date?

NOTES (Names of 44 workmen are mentioned in Annexure III attached with the award).



B1-4

ANALYSIS

These are 3 connected cases which were consolidated by order dt. 7.5.87 passed in I.D.No.68/86 by my learned predecessor Shri R B Srivastava, I.D.No.68/86 is the leading case. The dispute in all these cases has been raised by URKU on behalf of a number of workmen.

2. In I.D.Case No.49/86, the total number of workmen involved is 44. The case set up by the union on their behalf is that all these 44 workmen had been working under Loco Foreman, Northern Railway Loco Running Shed, Lucknow. Their services were terminated illegally, of some on 4.9.81 and of the rest on 4.10.81 as shown in the list annexed to the claim statement in utter violation of the provisions of Section 25F I.D.Act, although they had worked for more than 240 days in a calendar year and had acquired the temporary status. It is alleged that the management had not declared any seniority list nor had ever posted any such list on the notice Board. Alongwith these 44 workmen about 200, though junior to the applicants in question, were reinstated in 1983. Thus the management did not follow the settled principle of law of First come Last Go. Even at present there are 300 vacancies but the management is not considering their genuine cases. It has, therefore, been prayed by the Union that they be re-instated with full back wages. I may state here that the list annexed to the claim statement persons named at serial No.3 is shown to have been retrenched on 30.10.81, persons named at serial Nos.4 and 5 have been shown as having been retrenched on 3.10.81 and persons named at serial Nos.21,17 and 29 have been shown as having been retrenched on 4.10.81. The rest have been shown as having been retrenched on 4.9.81.

3. The case is contested by the management on a number of grounds. The management pleads that as per computerised list 17 persons named at serial Nos. 1,2,7,11,16,23 to 26,27,31,36 to 42 and 44 out of the 44 workmen involved in the case had never worked in the Locoshed, Lucknow. I may state here that in the computerised list filed by Shri Rm Tarun Pandey named at serial No.1 is shown to have worked for a total number of 99 days during 1980 and 1981. According to the management no retrenchment was made on 4.9.81. Workmen named at Serial Nos.3,4,5 and 19 absented themselves from 3.10.81 onwards.



~~absent~~ ~~of~~ of their own accord. Similarly the other workmen except those referred to above remained absent of their own accord thereafter. The management contends ~~that~~ that as a matter of fact no appointment was ever made by the ~~competent~~ competent authority and as such the question of their illegal retrenchment does not arise at all in this case. None of the workmen ever completed more than 240 days working during the period of 12 months preceding the date of their retrenchment nor any of them had worked continuously for more than 120 days in order to earn the temporary status. In the circumstances, the question of violation of the provisions of ~~section~~ section 25F I.D. Act does not arise. The vacancies were filled up by following proper section by the Screening Committee from amongst the persons who had been working continuously from dates prior to 1.6.78. No pick and choose policy was adopted in their selection. Hence the 44 workmen in question are not entitled to their reinstatement with back wages.

4. In the rejoinder filed by the Union, the additional facts which have been alleged are that the workmen/applicants had been given the facility of availing passes and FTOs and these facilities are available only to those workmen/applicants who have acquired temporary status.

5. In I.D.No.52/80 there are in all 143 applicants. The case set up by the union on their behalf is that all of them had worked for more than 240 days in a calendar year under Loco Foreman, Northern Railway, Loco Running Shed Lucknow. However, their services were terminated illegally, of some on 4.9.81 and of the rest on 4.10.81, in breach of the provisions of Section 25F I.D. Act. From the list furnished by the Union it appears that persons named at serial Nos.1,2,9,10 and 21 were retrenched on 3.10.81 and persons named at serial Nos.20,26 to 28, 34,36,45 to 48, 50, 101,121 on 4.10.81 and rest on 4.9.81. Besides person named at serial No.70 has been shown as having been retrenched on 4.1.81 and persons named at serial No.77 has been shown as having been retrenched on 3.9.81, it is also alleged by the Union in this case that along with these 143 workmen/applicants 1000 workmen were retrenched by the management but out of them 200 persons



who were juniors to those 143 workmen were reinstated in 1983 in utter breach of the principle of last in first come last go. According to the Union 300 vacancies are still available in the department but the management is not considering the genuine cases of these 143 applicants. The Union, therefore, prays that these 143 applicants be reinstated with fullback wages.

6. The defence case is that out of those 143 persons, 34 persons named at serial No. 5, 6, 11, 13, 21, 22, 26, 29, 34, 42, 46, 49, 50, 53, 59, 66, 67, 73, 79, 90, 91, 93, 97, 104, 108, 112, 114, 116, 124, 131, 134, 137 and 142 had never worked according to the computerised list. I may state here that there had appeared a clerical error in referring to those 34 applicants.

7. Person named at serial No. 53 has been wrongly mentioned. To make the total of 34 persons named at serial No. 56 and 59 of the computerised list should have been referred to. According to the management services of 109 persons were not terminated on 4.5.81 but the services of these 109 persons who had been working as casual labour were terminated on 10.4.81 and none of them had completed working of more than 24 days in the preceding 12 months nor had completed 120 days continuous service in one spell so as to acquire the temporary status. Thus there was no violation of the provisions of section 25 of I.D. Act. As regards the seniority list it is pleaded that seniority list is only prepared at the time of preparation of panel on the basis of working days of individual workmen. According to the management in August 1983, only 150 persons were reinstated in Locoshed Lucknow by DRM Office. The management denies that there exists any vacancy in the Locoshed, Lucknow at present. Hence, according to the management these workmen are not entitled to any relief.

8. In the rejoinder the only additional fact alleged by the union is the same as in the I.D. Case No. 49/86.

9. In the third case i.e. in I.D. No. 68/1986, we are concerned with 210 workmen. The Union case is that these 210 workmen/applicants had worked for more than 240 days under Loco Foreman Northern Railway Running Shed, Lucknow. Actual number of working days of each workman/applicant have been shown in the list annexed to the claim statement. The services of all these applicants were terminated of some on 4.9.81 and of some on 4.10.81 as given in the said list illegally in violation of the provisions of



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Section 25F I.D. Act. From the list it appears that nine applicants named at serial nos. 40, 41, 55, 71, 72, 75, 76, 77 and 165 were retrenched on 4.10.81 and rest on 4.9.81. The union further alleges that the management had not declared any list of seniority nor ever posted any such list on the noticeboard. Further out of 1000 workmen retrenched along with these 210 workmen 200 persons who were junior to those 210 applicants were reinstated in breach of the principle of low-first come-first go. In fact the management adopted the policy of pick and choose. These 210 applicants had also acquired temporary status. Lastly, it is alleged by the union that 300 vacancies in the loco shed are still available but the management is not considering the genuine cases of these workmen/applicants. Union has, therefore, prayed that all these 210 applicants be reinstated with full back wages.

10. The defence is that out of these 210 persons 90 persons named at serial nos. 2, 10, 16, 18, 19, 20, 22, 23, 25, 27, 29, 33, 34, 42, 43, 49, 50, 57, 58, 61, 62, 68, 71, 76, 80, 82, 81, 85, 86, 94, 95, 96, 100, 102, 103, 104, 105, 107, 109, 110, 111, 112, 113, 115, 120, 121, 125, 128, 129, 130, 132, 133, 137, 138, 144, 146, 147, 148, 150, 151, 152, 154, 156, 160, 163, 164, 166, 168, 173, 174, 175, 176, 178, 181, 183, 184, 185, 187, 188, 190, 195, 196, 198, 199, 202, 204, 206, 207 and 208 had never worked in Loco Shed Northern Railway, Lucknow, as per computerised list for the year 1978-79 and 1980-81. There was no retrenchment on 4.9.81. Only substitutes were disengaged on 4.10.81. None of these persons had worked for more than 240 days during the 12 preceding calendar months nor any of them had worked continuously for 120 days in one spell so as to acquire temporary status. According to the management, no seniority list is published and substitutes are engaged on seniority and availability at the time of engagement. The seniority list is only prepared at the time of perpetration of panel on the basis of working days put in by individual workman. As a matter of fact only 150 persons were reinstated in August, 1983, by DRM Office, Lucknow. Thus no right ever accrued to those 210 persons. These persons are entitled to no relief.

11. In the rejoinder, the only additional fact alleged by the union is that the facility of passes and PTOs was made available to these applicants and such facility is given only to those casual labour substitutes, who have acquired temporary status.

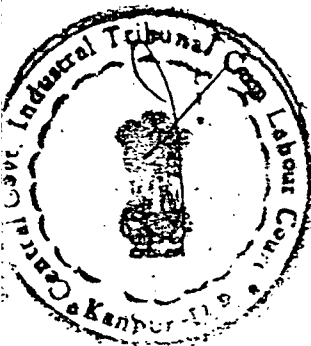
12. In support of its case, the union has filed the affidavit of Shri Surender Dubey named at serial no. 13



in the list annexed with their claim statement 1 No.49/86, the affidavit of Shri Mahavir Prasad ne serial no.138 in support of its case in I.D.No.52/86 at the affidavit of Shri Pramod Kumar Singh named at serial no. 1 in support of its case in I.D.No.68/86. On the other hand, in support of its case, the management has filed the affidavits of S/Shri M K Chakravarty, Loco Foreman and S H Raza, Asstt. Suptd. Loco Running Shed, Lucknow. After the close of evidence a few circulars were filed with the affidavit of Shri A K Yadav, a clerk in the office of D.R.M, Lucknow, to indicate the recruitment policy of the railway Administration with regard to recruitment of casual labour in Loco Sheds and other departments since July, 1974. The applicants were given time to file documents in rebuttal but on 18.8.88, the authorised representative for the applicants in all the three connected cases submitted before the Tribunal that he had nothing to say against these documents nor he had to file any documents in rebuttal on behalf of the applicants. Therefore, further arguments of the parties in the light of these three circulars were heard.

13. The first circular is no.220-E/190-IX(EIV) dt. 4.7.74 with regard to de-casualisation of casual labour. It seems to have been issued on the basis of Railway Boards Letter No.E(NG)-II-74-CL/27 dt.20.6.74. It shows that the subject of de-casualisation of casual labour came up for discussion with the representatives of AIRF, NFIR etc., and it was agreed by the Government that no casual labour would be employed in works of a regular nature which cover Workshops and Locosheds, train lighting establishment etc., It was further agreed by the government that in the said works till adequate number of regular staff were provided substitutes on appropriate scales of pay might be engaged instead of casual labour on daily rates.

14. The second circular is the copy of Railway Board's letter no.E(NG)/-II/77/CL/46 dt.27.2.78, which was issued in continuation of the earlier circular. These circular of the Railway Board imposed a ban on intake of fresh casual labour on open line by inspector except in emergencies such as accidents, floods breaches Etc. It laid down that where a situation arose where none of the serving casual labour was ²⁵¹ willing to go for a new job for which ELR was sanctioned fresh recruitment should then be only made on personal orders of the D.S.



15. The 3rd circular is dated 3.1.81 and it is in continuation of the second circular. It says that the number of men on casual basis already being sizeable enough to meet railway requirements in the field there should normally be no need for fresh intake of candidates. There could only be special situations in limited area and in that event intake of fresh casual labours should be resorted to only after obtaining the prior approval of the General Manager. It further provided that with the issue of these instructions, the power of engagement of such casual labours under the personal orders of the Divisional Superintendants, now DRMs, stood withdrawn. This circular thus shows that the railway administration adopted stiffer measures with regard to recruitment of casual labours in works regular nature in order to control the recruitment of fresh casual labours.

16. Shri S H Raza who is working as Asstt. Suptd., in Loco Shed Northern Railway, Lucknow has filed 3 affidavits, one each in 3 cases. These affidavits are almost similar to each other. In para 2 of his affidavit he has deposed that it had come to the notice of the authorities that a large number of casual labours had been shown as engaged in Loco Shed Northern Railway, Lucknow and enquiries made in this regard revealed that in the year 1931, about 2000 casual labours were engaged extra when the actual strength of the regular staff excluding the supervisory staff was about 1500. In para 3 of this affidavit he has made the averment that on preliminary enquiry the railway authorities found that a clear fraud had been played on the railway administration in connivance with some sub staff. The alleged workmen shown on the rolls were never in existence nor they ever worked at all with the railway administration. It was further noticed that the huge amount had been extracted from the railway administration in the form of salaries of such fictitious and fraudulent persons on the rolls. Then in para 4 he has averred that on being satisfied that fraud and conspiracy had been made against the administration of the railway, the matter was taken up by the vigilance H.Q. New Delhi, and as a consequence of it all the connected papers were seized by the Vigilance Coll. Lastly, in para 5 Shri Raza has given the names of 15 members of the sub-staff who had been suspended in connection with the said fraud and conspiracy.



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17. These facts have not been challenged from the side of the applicants. With regard to the 15 members of sub ~~main~~ staff named in para 4 of the management's affidavit he has stated in his cross examination that they have been served with chargesheets. The fact that there was some kind of fraud/ conspiracy/racket/scandlo find support from the facts stated by the applicants in their claim statements in all the 3 cases that alongwith them the services of more than 1000 persons were terminated by Railway Administration. The number of the applicants in all the three cases comes to $210+44+143 = 397$. It means that the services of nearly 1400 persons were terminated with one stroke of the pen by the Railway Administration.

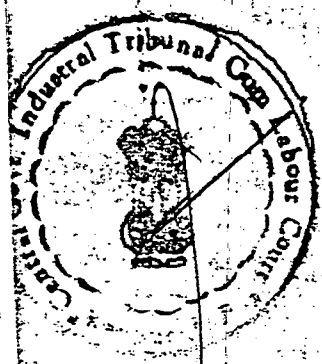
18. Now let us examine the evidence of these 397 applicants in the 3 cases on the following points:-

- i) Whether they were actually recruited?
- ii) Whether they or any one or more of them had worked for 120 days continuously in one spell so as to acquire temporary status?
- iii) Whether they or any one or more of them had worked preceding the date of their termination and
- iv) Whether the 200 persons whose services were terminated alongwith them byt recruited again in 1983 were junior to them?

I will refer to the evidence of the applicants in each case seperately.

19. In I.D. No.68/86, the applicants evidence consists of the solitary statement of Shri Pramod Kumar Singh who is named at serial no.1 in the list and the photostat copies of 39 passes and PTOs.

20. Shri Pramod Kumar Singh, is High School pass. In para 4 of his statement in cross examination he states that he cannot tell orally when the remaining 209 applicants were recruited and when their services were terminated. He has also stated that he cannot tell for how many days these 209 applicants had worked. He was confronted with the list of names of 90 applicants whose names according to the management do not find place in the computerised list. About them he says that although he knows them, he cannot tell for how many days they had done work. In fact he has admitted that he cannot tell for how many days each of the 209 applicants had worked.



applicants have got no documentary proof of the fact that these persons who were engaged in 1983 were junior to him. Thus we have also no satisfactory evidence from the side of the applicants that 150 persons who were given appointment in 1983 were junior to the applicants of I.D. 68/86.

28. The case of applicants in the other two I.D. Cases is no better. In I.D. 52/86, the applicants' evidence consists of the statement of Shri Mahavir Prasad who is named at serial No. 138 besides documentary evidence consisting of passes and PTOs of 66 applicants. The evidence with regard to passes and PTOs has already been dealt with by me. The applicants have not been able to prove these passes and PTOs which from the evidence of the management witnesses appears as not genuine. With regard to passes and PTOs I may state on thing more that it is admitted to both the sides that the passes and PTOs, if not used, are to be surrendered to the railway department after a certain period. How the applicants in all the three I.D. cases could retain them remains a mystery. Shri Mahavir Prasad is IX th class pass. In para 2 of his statement in cross examination he says that he does not know names of other applicants of his case. He could name only 7 of them. He admits that he as well as the rest of the applicants of his case were recruited as casual labour by Loco Foreman. He has given the date of his appointment as 1.10.79. As regards others he says that he cannot tell when they were recruited. In the list of the applicants annexed Shri Mohd. Ashim named at Serial No. 57 has been shown as having been recruited on 1.1.78, Shri Ram Asrey named at serial No. 106 has been shown to have been recruited on 27.1.78 and Shri Sant Lal named at serial No. 120 has been shown as having been recruited after the second circular dt. 27.2.78 referred to by me above. Those three applicants who have been shown as having been recruited prior to issue of the circular have been not been examined and as we have seen Shri Mahavir Prasad has been unable to tell as to when the applicants have been recruited who were junior to him.

29. Like Shri Pramod Kumar Singh, he too was questioned regarding casual labour card. In para 3A of his statement in cross examination he states that he does not know anything about any such card. In fact none of the applicants were ever given any document containing entries regarding period during which they had worked by the railway administration. There is no dispute about the fact that in respect of person recruited as casual labour casual labour cards are prepared and in it entries regarding the period during which they had worked from time to time are made.



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30. On the question of termination, in para 4 of his statement in cross examination he says that his ~~services~~ ^{services} were terminated w.e.f. 4.9.81. Of the remaining 142 applicants some were retrained on 4.9.81 and some on 4.10.81. He was unable to tell the names of those whose services were terminated on 4.9.81 and those whose services were terminated on 4.10.81. However, from the list attached to his affidavit it appears that the services of the applicants named at serial Nos. 12, 9, 10 and 21 were terminated on 3.10.81, of that named at serial No. 12 was terminated on 1.9.81, of that named at serial No. 70 was terminated on 4.1.81 and of those named at serial Nos. 77 ~~terminated~~ ^{terminated} 878 and 879 were terminated on 3.9.81.

31. With regard to himself he says that some times he worked for 15 days and some times for 20 days in a month in the beginning but from 8.2.81 onwards, he worked continuously till the date of termination of his service. In the absence of any documentary evidence no reliance can be placed on his testimony when he is not in possession of the casual labour card even and when the passes and PIOs have not been proved to be genuine. He admits that none of the applicants of his case was ever put to screening test meaning thereby that none of them have been called for interview by Screening Committee.

32. Like the previous witness he has made the averment in para 7 of his affidavit that the management engaged 150 workers out of 1000 in 1983 without observing the rules of 'First Come Last Go'. In his cross examination he admits that these 150 persons were given fresh appointments as they had filed a case alleging that their services had been terminated wrongly. He does not seem to be sure when these 150 persons were recruited again. At first he said that they were recruited in 1985 but then changed and said that they were recruited in 1982. About the initial appointments of these 150 persons he says that he cannot tell when they were recruited. He even cannot tell who among these 150 persons were recruited prior to him and who after him. According to him when these 150 persons were given appointments they (143) also went for recruitment but they were not taken. No reasons were given for not taking them. They therefore, took a written complaint to the ADM but it was not taken by him. Thereafter they did not send it by post. Thus the applicants of I.D. No. 52 of 1986 are also found to have been unable to prove their case on any of the four points.

33. Lastly, I come to I.D. No. 49/86. In this case the applicants evidence consists of the statement of Shri Suran'nd

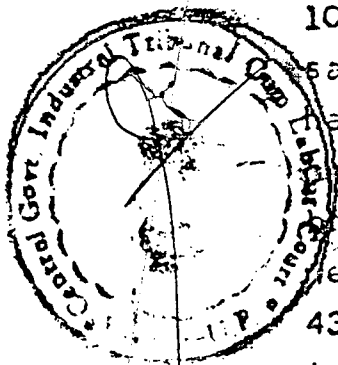


Dubey named at serial No.13 and passes and PTOs of 7 applicants. The evidence with regard to passes and PTOs has already been considered by me and I have found that neither they have been proved by these applicants nor they seem to be genuine.

34. Shri Surendra Dubey, is a Graduate. Like Mr Mahavir Pandey he has deposed that all the applicants of his case were recruited by Loco Foreman, Loco Shed, Lucknow. From the dates of recruitment mentioned against the applicants in the list annexed to his affidavit it appears that except Shri Jai Prakash whose name appears at serial No.28, all others were recruited much after 27.2.78. The witness admits that all of them were recruited as casual labours. He could not tell the names of all other applicants except two. About himself he says that he was recruited on 1.5.80 and Shri Tarun Pandey whose name appears at serial No.1 was recruited on 30.11.80, when in the said list he is shown as having been recruited on 3.12.79. He is unable to tell when the rest of the applicants were recruited. Although he claims to hold a degree in BA, he does not know what casual labour card is. According to him during the course of his employment he was never ~~given~~ given such a card. He admits that he was never given any document shown the period during which he had worked. He had not seen such a card with the remaining 43 workmen. With regard to number of days for which the applicants had worked, about himself he says that in the beginning he was given work for 10 or 15 continuously. About the remaining 43 applicants he says that he cannot tell for how many days in a month they had worked. He cannot say even whether they had worked continuously or not. He admits that none of them ever appeared before the Screening Committee. According to him his services were terminated w.e.f. 4.9.81. With regard to the remaining 43 applicants he says that the services of some of them were terminated on 4.9.81 and of the rest on 4.10.81. He is unable to tell who amongst 43 were ceased w.e.f. 4.9.81 and who on 4.10.81. From the list annexed to his affidavit it appears that the applicants named at serial No.3,4 and 5 were ceased w.e.f. 3.10.81.

35. Thus in the absence of any cogent evidence it is difficult to believe the applicant's case in all the three connected cases on any of the four points.

36. With regard to recruitment of 150 persons in August 1983, out of 1000 retrenched with them he says that these 150 persons were recruited on the basis of the cases filed by them. He was unable to tell the names of all except six persons. He was further unable to tell when these 150 persons



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were initially recruited, whether they were recruited earlier to the 44 applicants or afterwards? Thus even at the point that juniors had been given fresh appointments, these applicants have not case at all?

37. As stated earlier by me the management's evidence consists of the statements of Shri RK Chakravarty, Labour Foreman and S H Raza Asstt. Supdt. Inco Shed besides the circulars referred to above. But the witnesses have corroborated the cases set up by the management? According to Shri Chakravarty the termination of the services was under the orders of LRM and that 150 persons were recruited re-engaged in 1983 under the orders of the Court. I have referred to some of the important facts stated by Shri S H Raza and some of the paragraphs of his affidavits; so I need not repeat those facts. In his cross examination he was questioned about the posted and PTOs. This also I have referred at the relevant places.

38. Thus from the over all discussion of facts and circumstances, I find that the case of the applicants in the 3 cases regarding their recruitment is of highly doubtful nature. Even if it be assumed that there was recruitment of such of the applicants whose names find in the computerised list it cannot be held in view of the circular referred to by me that they were validly recruited. It is highly doubtful that they had worked for a single day. Even if it be assumed that some of the applicants had worked, they have failed to prove that they had worked continuously for 120 days in one spell as to acquire temporary status or they had worked for 240 days during the period of 12 months preceding the date of their termination entitling them to claim protection of section 25 F. Lastly, they have failed to prove that the 150 workmen who were re-engaged in 1983, under the orders of the court were junior to them?

39. In connection with these cases I would like to refer to the full bench ruling of the Patna High Court in Rita Mishra and others v Director Primary Education, Bihar 1988, Lab IC 987. It was held that where the letter of appointment is a forgery and the appointee is a party and privy to the same no substantive right of salary would arise, however long the persons may have fraudulently worked on the post in actuality. It was further held that where the source of the right is rooted in fraud or established dubious considerations no right stricto sensu for salary could arise and far less be enforceable by way of mandamus in the writ



jurisdiction. It was also held that where the very letter of appointment is illegal being flagrantly violative of the statutory procedure prescribed for selection and appointment, the same would be illegal and their being no valid appointment in the eye of law, no consequential right to salary stricto sensu would arise.

40. Hence, the reference in all the 3 cases are answered against the applicants. The applicants are held entitled to no relief.

41. Let a copy of this award be placed on the record of each connected case.

Sd/- 27.9.88

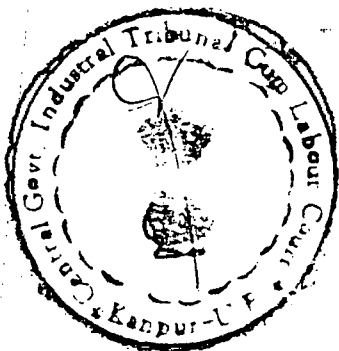
(ARJAN DEV)

Presiding Officer.

42. Let six copies of this award be sent to the Government for its publication.

Sd/- 27.9.88

(ARJAN DEV)



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(S. S. SHARMA)

Secretary

Central Government Industrial
- Gum Labour Court-Kanpur

ANNEXURE - I

Name of the workers

16

AS

1. Pramod Kumar Singh

2. Suresh Chand

3. Laxmi Om Prakash

4. Laxmi Shanker Pandey

5. Ram Kailash

6. Mohd. Munner

7. Virender Kumar

8. Chhotey Lal

9. Paras Nath

10. Ganga Pd

11. Ram Shanker

12. Mohd. Yans

13. Dhirend Pal Singh

14. Vinod Kumar

15. Sushil Kumar Srivastava

16. Thakur Prasad

17. Chandra Prakash

18. Hari Shanker

19. Hari Nath Singh

20. Harendra Nath

21. Rajiva Kumar

22. Suresh Pal Singh

23. Mohd. Jahoor

24. Santosh Kr. Chaudhary

25. Ramesh Kumar

26. Raj Kumar

27. Sajiwan Lal

28. Iswar Deen

29. Surya Pal

30. Vinod Kumar

31. Pramod Kumar

32. Baghaw Ram Shukla

33. Mohd. Sageer

34. Rama Kanta Sharma

35. Anil Kumar

36. Mohd. Nrulla Khan

37. Laxmi Kant

38. Deep Kumar

39. Bhagwan Pd

40. Anil Kr. Srivastava

41. Prama Nand

42. Ravindra Kr. Pandey

43. Krishan Shayam Shukla

44. Bhawar Singh

45. Lal Chand

2. Shiv Nath

3. Raj Kumar Diwevedi

4. Brij Kishore Misra

5. Naushad Ali

6. Ram Bhawan

7. Washuddin

8. Subhas Pd. Srivastava

9. Ram Chander

10. Ram Deo

11. Vishan Prakash

12. Mahendra Pratap Singh

13. Suhsil Kumar Pandey

14. Ram Pati

15. Jangam Nath

16. Anil Kumar Srivastava

17. Shiv Ram

18. A.K. Bal Shanker

19. Ram Chander

20. Satya Narayan Yadav

21. Bhagwati Saran Pandey

22. Jawahar Sharma

23. Hari Kishan

24. Ram Milan Sanhai Yadav

25. Ram Milan Yadav

26. Narendra Kumar

27. Jaghir

28. Mohd. Salim

29. Ram Nath

30. Kashi Pd

31. Vijai Kumar Gupta

32. Shobha Ram Pandey

33. Saigan

34. Raj Kumar Sharma

35. Ram Chander Verma

36. Mohd. Tauheed Khan

37. Amin Khan

38. Shiv Kumar Yadav

39. Payarey Lal

40. Dinesh Kumar

41. Giraja Shanker Verma

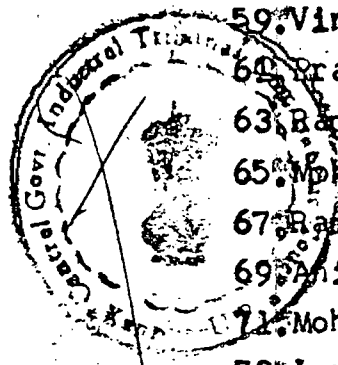
42. Shitala Prasad Pandey

43. Mohd. Kallan

44. Trilogi Saran Singh

45. Ram Sukha

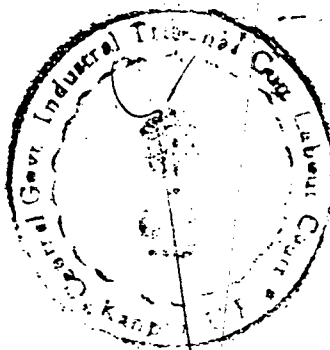
46. Gulab Chand



91. Jai Chander Singh
92. Virender Kumar
95. Tej Pratap
97. Ram Sajiwan
99. Hamid Khan
101. Ram Prakash
103. Ramanuj Verma
105. Rajinder Pd
107. Prem Kumar
109. Chhotey Lal
111. Vinod Babu Pando
113. S. P. Shukla
115. J. P. Chaurasia
117. Ram Niwas
119. Nazar Mohd
121. Balwant Singh
123. Virendra Kumar
125. Moshitla
127. Awadesh Kumar
129. Mahendra Kumar
131. Ramesh Chandra
133. Kishan Bal
135. Sri Leo Varat Tewari
137. Rajendra Yadav
139. Kapil Deo
141. Radhey Shyam
143. Chhedi Lal
145. Nasiruddin
147. Baham Ali
149. Devendra Pd
151. Ram Kumar
153. Ram Lakhani
155. Balwant Singh
157. Ramesh Bahadur Nanhoo
159. Rah Bahadur
161. Chandra Mohan
163. Ramgopal Pandey
165. Sri Dwarika Nath
167. Ajeet Singh
169. Rajendra Pd

92. Santosh Srivastava
94. Rajinder Pd
96. Ganesh Prasad
98. Jamuna Prasad
100. Hira Lal Yadav
102. Ram Singhasan Duboy
104. Rasul Ghani Khan
106. Baij Nath
108. Dashrath
110. S. P. Sharma
112. K. K. Chbey
114. J. P. Debey
116. Udit Narain
118. Tong Nath
120. Naseem Ahmad
122. Mahraj Deen
124. Rakesh Kumar
126. Ram Bahadur
128. Rajendra Kumar
130. Gulab Chand
132. Ahmad Raji
134. Azi z Ahmad
136. Harish Chandra
138. Dhurb Deo Yadav
140. Bansraj
142. Ram Bajh Yadav
144. Ram Prasad
146. Khalil Ahmad
148. Allah Raham
150. R. P. Srivastava
152. Rakesh Kumar
154. Raj Kapoor Singh
156. Rana Shanker Sharma
158. Deshraj
160. Bhaialal
162. Jagmohan Sharma
164. Levant Avasthi
166. Indrajit Singh
168. Indrapal
170. Faujadar Pd

AG 2



171. Bachcharam.

173. Parasnath Sharma.

175. Bhulal Prasad.

177. Bachcha Ram.

179. Vishram Sagar.

181. Rajaram.

183. Sugar Pratap Singh.

185. Ajiz Ahmad.

187. Raj Kishore.

189. Ramesh Chandra .

191. Krishnapal.

193. Vijai Kumar.

195. Bhikari Lal.

197. Sheo Prakash Srivastava.

199. Vinod Kumar.

201. Ram Bhulawan.

203. Surya Pd.

205. Jurga Pd. Srivastava.

207. Mohd. Aslam Khan.

209. Raj Bahadur.

172. Krishna Kumar.

174. Jagan

176. Tribhuvan Das.

178. Raja Ram.

180. Rajendra Kumar.

182. Ramanand.

184. Kamal Kumar.

186. Ajai Kumar.

188. Bachalal Sharma.

190. Ahmad Raza

192. Aziz Ahmad.

194. Ram Kishore.

196. Kailash.

198. Rais Ali.

200. Nais Ahmad.

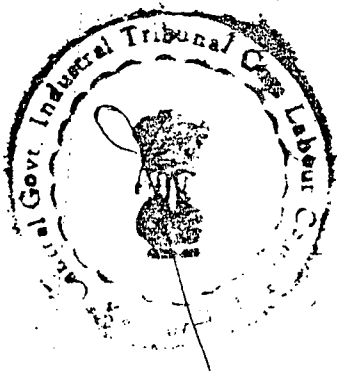
202. Devta Prasad

204. Vinod Kumar.

206. Ram Prakash.

208. Ram Naresh.

210. Janardan Singh.



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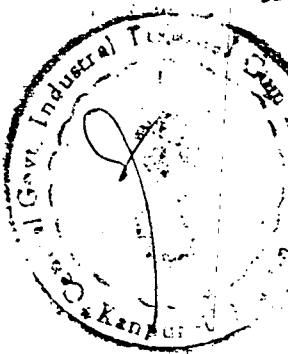
21.2.89
Secretary
Central Government Industrial Tribunal for Labour
New Delhi

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ASTI

ANNEXURE-II
NAME OF THE WORKERS

1. Rakesh Kumar.
3. Murney Lal Yadav.
5. N. K. Verma.
7. Uma Shanker.
9. Nooruddin.
11. Bijay Bahadur.
13. Sajar Hussain.
15. Mohd. Hussain.
17. Mohd. Arif.
19. Ved Prakash.
21. Mohd. Sabir Khan.
23. Sitaram Singh.
25. Lodheshwar Pandey.
27. Rameshwar Prasad.
29. Sri Kishan.
31. Siya Ram.
33. Sajivanlal.
35. Ram Pratap Singh.
37. Ram Kamal Yadav.
39. Naphish Ahmad.
41. R. C. Verma.
43. Bipin Kumar.
45. Rahat Ali.
47. Jagdish Prasad.
49. Gopal Sinha.
51. Ram Sanchi.
52. Iqbal Ali.
53. Ram Pal.
57. Mohd. Ashim.
59. Ram Bilas.
61. Rakesh Babu.
63. Rajesh Kumar.
65. Sher Mohd.
67. Subhash Sharma.
69. Ram Chandra.
71. Sohan Lal.
73. Devi Prasad.
75. Ram Gulam.
77. Uma Shanker Tiwari.
79. Bijay Kumar.
81. Ved Prakash.
83. Narendra Nath.
85. Raj Kumar.
2. R. K. Srivastava.
4. Rajesh Kumar.
6. Ram Retan.
8. Mohammad Sagir.
10. Mohd. Hussain.
12. Raj Bahadur.
14. Jai Prakash.
16. Pharkat Ali.
18. Sakil Ahmad.
20. Om Prakash.
22. Triloki Nath.
24. K. K. Dwivedi.
26. Rajendra Bahadur.
28. Balgovind Hexun Yadav.
30. Laxmi Narain.
32. Ram Chander.
34. Sabhu Saren.
36. Ram Nihore.
38. Mohd. Shamin.
40. Shakir Ali.
42. Bijay Kumar.
44. Ram Khelawan.
46. Siya Ram.
48. Babu Lal.
50. Wasiullah Khan.
52. Nasir Raza.
54. Shahjad Ali.
56. Sayya Narain.
58. Bavar Hussain.
60. A. K. Srivastava.
62. Om Prakash.
64. Ram Babu.
66. K. K. Singh.
68. Gopal Sharma.
70. Sumer Chand.
72. B. Bhagwan Deen.
74. Ram Surst.
76. Surya Pal Singh.
78. Girish Kumar.
80. Kapil Kumar.
82. Shatrughan Pd.
84. Kali Prasad.
86. Shyam Manohar.



87. Tulsī Ram.
89. Rajesh Kumar.
91. Indra Pal Singh.
93. Ashok Kumar.
95. R. P. Chaudhari.
97. Birendra Kumar.
99. Bijendra Kumar.
101. Sunil Kumar. Tiwari.
103. Sunil Kumar.
105. Ram Asrey.
107. Satish Kumar Gupta.
109. Mahendra Pratap Singh.
111. Ramesh Kumar.
113. Tara Shanker Sharma.
115. Radhey Shyam.
117. Shiv Narain Sharma.
119. Rajendra Kumar.
121. Shanker.
123. Ghan Shyam.
125. Ram Naresh.
127. Ali Khasar.
129. Ram Chandra Singh.
131. Bijay Kumar.
133. Harish Chand.
135. Satish Chandra.
137. Dinesh.
139. Satya Narain.
141. Satya Narain.
143. Sudhesh Kumar. Srivastava.

88. Maiku Lal.
90. A. K. Arora.
92. Vijay Pal Singh.
94. Ashok Kumar.
96. Vijay Bahadur.
98. Umesh Kumar Singh.
100. D. K. Tiwari.
102. Shoktar Bai.
104. Brij Bihari Misra.
106. Uday Pratap Singh.
108. Anurudh Kumar Srivastava.
110. Ashok Kumar.
112. Birendra Kumar Sharma.
114. Ramesh Chand Sharma.
116. Radha Kumar Sharma.
118. Suresh Kumar.
120. Sant Lal.
122. Shah Navas Khan.
124. C. K. D. Dwivedi.
126. Tek Chand Arora.
128. Shanker Dayal Pandey.
130. Rama Kant.
132. Ashok Kumar.
134. Vijay Kumar.
136. Ram Naresh.
138. Mahabir Pd.
140. Idrish Ahmed.
142. Sheb Lal.



CERTIFIED COPY

(S. S. SHARMA)
Secretary

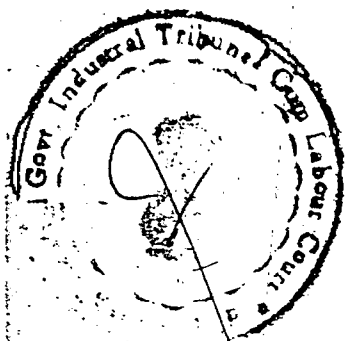
Central Government Industrial Tribunal
- Cum. Labour Court - Kanpur

T. K. Sharma

ANNEXURE III

1. Tarun Pandey:
3. Krishna Chandra Tripathi:
5. Jagannath Dutt: Trivedi:
7. Hanuman Prasad:
9. Suraj Prasad
11. Amar Chand:
13. Surendra Dubey:
15. Shiv Narain:
17. Gyan Singh:
19. Vijai Singh:
21. Rajendra Prasad Yadav:
23. Narendra Dutt:
25. Dinesh Kumar:
27. Subha Kumar:
29. Surendra Kumar:
31. Mahendra Kumar Sharma:
33. Sarat Kumar:
35. Nagendra Pratap Singh:
37. Nand Pal:
39. Dinesh Chandra:
41. K. Brij Raj Singh:
43. Hari Kesh Kumar:

2. Munna Lal:
4. Shanker Sahai Tripathi:
6. Wirendra Kumar:
8. Vijendra Kumar Srivastava
10. Raj Bahadur:
12. Dhru Lal:
14. Ramesh Chandra Yadav:
16. Bharat Singh:
18. Harbans:
20. Wamesh Chandra Verma:
22. Ram Chandra:
24. Ayodhya Prasad:
26. Vimal Kumar Tiwari:
28. Jai Prakash:
30. Ram Prasad:
32. Ravi Shanker:
34. Rajendra Biream Singh:
36. Pramod Kumar Singh:
38. Haridwar Pd:
40. Ram Kishore Srivastava:
42. Pavan Kumar Singh:
44. Ravindra Nath Debey:



CERTIFIED COPY

(S. S. KARMA)

Secretary

Central Government Industrial
Cum Labour Court - Kaaber

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. NO. 256 OF 1990(L)

A 57

Rajiv Kumar Pandey APPLICANT

VERSUS

Union of India and others RESPONDENTS

REJOINDER REPLY TO THE REPLY MADE ON BEHALF
OF RESPONDENTS RAISING PRELIMINARY OBJECTIONS.

1. That the contents of para 1 of the reply of
of the Respondents submitted in the form of
preliminary objections (hereinafter referred to
as reply) are denied as incorrect and mala fide.
It is further submitted that the applicant
never raised any dispute along with the said
208 persons as alleged. Neither the applicant
made any application nor signed at any occasion
for raising the dispute referred in para under
reply. It appears that Northern Railway Karam-
chari Union raised some dispute on behalf of the
workmen who were arbitrarily promoted by the
Respondents. The name of the applicant has
wrongly been shown in the list. The applicant
has no knowledge how his name has also been
included in the annexure-1 attached with the
award of the Industrial Tribunal. It appears
that a general list of the retrenched workmen
has been supplied to the Industrial Tribunal
without obtaining any consent from them ^(workmen) as to
whether they are pursuing the matter or not.
From a perusal of the annexure attached with

Rajiv Kumar

A 58

the award of the Industrial Tribunal reveals that the name of one Sri Harindra Nath has been shown as at serial no. 38. This workman has also not cited his matter before the Industrial Tribunal as he was given duty in the year 1984 itself after thumb verification. But as the general list of the retrenched workmen was placed by the Karamchari Union the name of several retrenched workmen including the applicant also appeared in the list without any knowledge of the applicant. The applicant has been making representations to the Respondents for considering his case but the Respondents never informed the applicant that his case is subjudice and was being considered by the Industrial Tribunal. It is categorically stated that the applicant has neither made any application raising his grievances before the Industrial Tribunal nor directly or indirectly, nor executed any Vakalatnama on his behalf nor did anything for raising dispute before the Industrial Tribunal and he has absolutely no knowledge as how his name is being shown in the list. Hence the applicant cannot be deprived of his legitimate right for which he is entitled to on the basis of the judgement given by this Hon'ble Tribunal in O.A. No. 1741 of 1990(L) - Ambika Singh and others Versus Union of India and others.

2. That the contents of para 2 of the Reply are denied as stated. It is further submitted that the applicant has not filed any writ Petition challenging the aforesaid award of the Industrial

Rajiv Kumar

A 59

Tribunal. The Respondents have not disclosed the names of the persons who have filed the said writ Petition No. 2944 of 1989. The applicant reiterated that neither he has any knowledge of these facts nor he has any concern with the case neither before the Industrial Tribunal nor before the Hon'ble High Court. The applicant has raised his grievances for seeking legal redressal for the first time by dint of the instant Original Application.

3. That the contents of para 3 of the Reply are denied. The applicant has no concern with the said Industrial dispute or the writ Petition and as such the applicant is entitled to be heard by this Hon'ble Tribunal and is entitled to get the benefits of the judgment of this Hon'ble Tribunal dated 23.10.1992 passed in U.A. No. 174 of 1990 (L).
4. That the contents of paras 4 and 5 of the Reply are denied as stated. Since the applicant has raised his grievances for the first time before this Hon'ble Tribunal, he is entitled to be heard and his Original application is liable to be decided on merit. The applicant has not filed any case neither before the Industrial Tribunal nor before the High Court in any manner whatsoever and as such he cannot be deprived of the right of hearing and the Respondents are liable to submit reply to the Original application of the applicant. A true copy of the judgment dated 23.10.1992 passed in Original Application No. 174

Contd... 4

Rajiv. Kumar

of 1990(L) - Ashika Singh and others Versus
Union of India and others is being filed herewith
as ANNEXURE-A to this Rejoinder Reply.

ANNEXURE-A

VERIFICATION

I, Rajiv Kumar Pandey, son of ^(S. R. Pandey) SRI. SALIGRAM ~~PAND~~
PANDAY
aged about 24 years, working as Cleaner
in the office of Loco Foreman, LHO, resident
of L.D. Colony Alambagh, do hereby
verify that the contents of paras 1 to 4 of this
Rejoinder Reply are true to my personal knowledge
and that I have not suppressed any material
fact.

LUCKNOW DATED :
MARCH , 1993.

Rajiv. Kumar.
APPLICANT.


ADVOCATE.

5

A67

In The Central Administrative Tribunal Lucknow Bench, Lucknow
O. A. No 256/1999 (L)

Rajiv Kumar Pandey

Applicant

Union of India And Others

Annexure No - A

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

O.A. No. 174 of 1990

Ambika Singh and Others

Applicants.

versus

Union of India & Others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Chavva, Adm. Member.

(By Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicants who were appointed as substitute casual labour have approached this Tribunal with a prayer for consideration of the applicants for appointment as regular class IV employees and the respondents be directed to consider the applicants in continuous service as Substitute Casual Labours, Loco Shed, Alambagh Lucknow and further to direct them to take work from the applicants and pay them salary regularly.

Although the respondents have not filed counter affidavits from the facts stated by the applicant it comes out that the applicants were appointed in various years upto 4.9.81. Although the applicants have worked for more than 120 days, the details of which have been given by the applicants, the services were terminated on 4.9.91. Applicants made representation and the Secretary of the Union also espoused their cause. It was later on revealed that substitute's services have been terminated because of the bogus labour cards and substitutes were entered in the order of seniority and also screened



Rajiv Kumar

(6)

A 62

and absorbed accordingly. A letter dated 24.2.84 was also issued in this regard, copy of which is placed on record and was sent to the Union also. The record of the applicants was scrutinised but appointment was not offered to them. Some of them filed writ petitions before High Court which was transferred to this Tribunal and decided vide judgment dated 24.4.89 and the respondents were directed to give appointment to the petitioners who were medically fit. The position has changed. Juniors to the applicants were retained and they were allowed to continue and their cases have been considered for regularisation. The respondents are directed to consider the case of the applicants for regularisation and absorption, in case the juniors were considered, or the benefit of re-employment be given. Let this be done in accordance with law within 3 months from the date of receipt of a copy of this judgment.

No order as to costs.

Shakeel/- V.C.

Shakeel/-

Lucknow: Dated: 23.10.92.

Certified Copy

23/11/92

Judicial Officer

C. A. T.

LUCKNOW.

(See rule 114)

~~OA/TA/RA/CP/MA/PT .256/90.... of 20.....~~

Versus

INDEX SHEET

Serial No.	DESCRIPTION OF DOCUMENTS	PAGE
1	check list	A - A1
2	order sheet	A2 - A4
3	- final judgment 31.3.93	A5 - A7
4	Petition	A8 - A19
5	Power	A20
6	Annexure	A21 - A56
7	R.A or	A57 - A57 - A62

B. 4 c: Whecked out & destroy

Signature of S.O.

Signature of Deal. Hand

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, MOTI MAHAL, LUCKNOW.

DATED: 24/1/94

CASE Title O.A. No. 256 1990

Name of Parties.

Rajeev Kumar Pandey Applicant

versus
Union of India Respondents.

PART -A

<u>Sl.No.</u>	<u>Description of Documents</u>	<u>Page</u>
1-	Check-List	A A1
2-	Order Sheet	A2 - A4
3-	Final Judgement (31-3-93)	A5 - A7
4-	Petition Copy	A8 - A19
5-	Annexure	A21 - A56
6-	Power	A20
7-	Counter Affidavit	
8-	Rejoinder Affidavit	A57 - A62

PART -B

B63 - B116

Part -C

Certified that no further action is required. The case is fit for consignment to record room.

Section Officer

Court Officer

Incharge

Signature of Dealing Assistant.

(RN)

CENTRAL ADMINISTRATIVE TRIBUNAL
CIRCUIT BENCH, LUCKNOW

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 17.8.190
Date of Receipt by Post
7/11
Deputy Registrar (J) A

Registration No. 256 of 1989-90 Lr.

APPLICANT(S) Rajiv Kumar Pandey
RESPONDENT(S) U.O. 9-

Particulars to be examined

Endorsement as to result of examination

- | | | |
|-----|--|------|
| 1. | Is the appeal competent ? | yes |
| 2. | a) Is the application in the prescribed form ? | yes |
| | b) Is the application in paper book form ? | yes |
| | c) Have six complete sets of the application been filed ? | yes |
| 3. | a) Is the appeal in time ? | yes |
| | b) If not, by how many days it is beyond time? | N.A. |
| | c) Has sufficient case for not making the application in time, been filed? | yes |
| 4. | Has the document of authorisation/ Vakalatnama been filed ? | yes |
| 5. | Is the application accompanied by B.D./Postal Order for Rs.50/- | yes |
| 6. | Has the certified copy/copies of the order(s) against which the application is made been filed? | yes |
| 7. | a) Have the copies of the documents/relied upon by the applicant and mentioned in the application, been filed ? | yes |
| | b) Have the documents referred to in (a) above duly attested by a Gazetted Officer and numbered accordingly ? | yes |
| | c) Are the documents referred to in (a) above neatly typed in double sapce ? | yes |
| 8. | Has the index of documents been filed and paging done properly ? | yes |
| 9. | Have the chronological details of representation made and the out come of such representation been indicated in the application? | yes |
| 10. | Is the matter raised in the application pending before any court of Law or any other Bench of Tribunal? | No |

Particulars to be Examined

Endorsement as to result of examination

11. Are the application/duplicate copy/spare copies signed ?
12. Are extra copies of the application with Annexures filed ?
 - a) Identical with the Original ?
 - b) Defective ?
 - c) Wanting in Annexures
- Nos. _____ pages Nos _____ ?
13. Have the file size envelopes bearing full addresses of the respondents been filed ?
14. Are the given address the registered address ?
15. Do the names of the parties stated in the copies tally with those indicated in the application ?
16. Are the translations certified to be true or supported by an Affidavit affirming that they are true ?
17. Are the facts of the case mentioned in item no. 6 of the application ?
 - a) Concise ?
 - b) Under distinct heads ?
 - c) Numbered consecutively, 1
 - d) Typed in double space on one side of the paper ?
18. Have the particulars for interim order prayed for indicated with reasons ?
19. Whether all the remedies have been exhausted.

yes

yes

yes

x

M.A.

yes

yes

yes

yes

yes

yes

yes

dinesh/

sent
17/8

(1)

A.P.

(1)

5-9-90

No setting Adj to 13-9-90

W.L.

(2)

13-9-90Honble Mr. Justice K. Nalwa
Honble Mr. M.M. Singh AMOn the request of learned
counsel for the applicant, the
case is adjourned to 26.10.90
for admission.

J.

H. K. Sane
AMW.L.
Vc

(3)

26.10.90

No setting Adj to 9.11.90

2

(4)

9.11.90Hon. Mr. M.V. Bhatkar AM.
Hon. Mr. D.K. Aggarwal J.M.On the request of counsel for
Applicants, O.P. Bhandari, case
is adjourned for hearing
on 18.12.90.

2

J.M.

W.L.
AM.

Hon'ble Mr. Justice U.C.S.V.C.

Hon'ble Mr. A.B. Gorthi, A.M.

Dated: 1.7.1991.

A3

Admit. Issue notice counter within 4 weeks
Rejoinder within 2 weeks thereafter.

List before D.R. on 26.8.91.

A.M.

V.C.

R.S. M.

OR
notice gussed
8/7/91

26.8.91

D.R.

counsel for the
applicant is present.

He desires to Amend -
ment the application
by 6/11/91. There after
O.P. to file counter.

6.11.91

D.R.

Applicant's side

is present - He is
directed to incorporate
the amendment
by 24/11/92.

CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH : LUCKNOW
.....

ORDER SHEET NO. _____

O.A./I.A. No. 256/90

AY

OFFICE REPORT	DATE	ORDER
---------------	------	-------

21-9-92
D.R.

This file has not been received
on 31-8-92 from the office.
Both the parties are absent.
Applicant is ordered to answer
the petition by 20-11-92.

20-11-92
D.R.

Counsel for the Applicant
Sri D.P. Srivastava is present.
Counter has not been filed.
List for filing counter
on 10-12-92.

10-12-92
D.R.

Applicant is present. Counter
has not been filed. Respondent
to file it by 24-12-92.

24-12-92
D.R.

Counsel for the applicant
Sri D.P. Srivastava is present.
Counter has not been filed.
Respondent to file counter by
7-1-93.

U.S.
C.A. P. 100

MANISH/-

5/1/93

CENTRAL ADMINISTRATIVE TRIBUNAL

LUCKNOW BENCH

LUCKNOW

AS

Original Application No. 256 of 1990

Rajiv Kumar Pandey

Applicant

versus

Union of India & others

Respondents.

Hon. Mr. Justice U.C. Srivastava, V.C.
Hon. Mr. K. Obayya, Admn. Member.

(Hon. Mr. Justice U.C. Srivastava, V.C.)

The applicant was appointed as Substitute casual labour in the year 1980. The services of the applicant along with 439 other applicants were terminated. The applicant and others represented his case through Union. A strike notice was given and the Union asked the employer to consider the cases of these persons. It appears that the services of the casual labours and substitutes were terminated on the ground that ~~the~~ they produced the forged casual labour card.

2. According to the applicant, his service record ^{some} was found to be genuine and ~~they~~ were offered appointment and they were medically examined and they were not offered regular appointment. A writ petition was filed before the High Court which stood transferred to this Tribunal under section 29 of the Administrative Tribunals Act, which was allowed vide judgment dated 24.4.89 directing the respondents to appoint the applicant and those who have been found medically fit.

✓

AG

No orders were passed, although they had worked for more than 240 days and certain rights had accrued in their favour.

3. The respondents were going to screen others and not to the applicants and the applicants have ~~approached~~ ^{key} prayed that have acquired the temporary status and their services could not have been terminated and the termination order is illegal and that is why they have prayed that the respondents be directed to consider the case of the applicant in continuous service as substitute casual labour, Loco Shed, Alambagh, Lucknow and further direct the respondents to take work from the applicant and pay him salary regularly till the applicant is absorbed as regular Class IV employee.

4. An objection was raised by the respondents in which it has been stated that the Union, giving a list of 208 employees which included the name of the applicant, approached the Central Government Industrial Tribunal and an award was given against the employees against which the writ petition was filed and is pending and as such the applicant cannot have two remedies.

5. As a matter of fact, the case was referred by the Union and merely because the Union raised grievance, it cannot be said that the applicant raised a particular grievance. The question which was referred to the Labour court ^{was} as to whether the respondents were justified in terminating the services of the applicants and the

us

A7

Labour Court came to the conclusion that ~~some of~~ the cases of the some of the applicants were highly doubtful, but they cannot claim benefit of the same. It appears that the Labour court did not enter into the controversy. Their services could have been terminated only after giving opportunity. This opportunity should have been given to those who have worked for more than 240 days. The respondents are directed to consider the case of the applicants as to whether they have entered the service by using forged card and in case the cards are not found forged, they will be considered from the date their juniors were regularised. It is however, made clear that the applicants who are to be reinstated or to be regularised, will not be paid wages. Let it be done within a period of three months.

5. Application stands disposed of as above. No order as to costs.

Adm. Member.

Vice Chairman.

Lucknow: Dated: 2x4 31.3.93.

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. NO. 256 OF 1990 (4)

AB

Central Administrative Tribunal
Circuit Bench, Lucknow
Date of Filing 17/8/90
Date of Applicant Past.....

Rajiv Kumar Pandey

Versus

Deputy Registrar (I)

Union of India and others 8 Respondents.

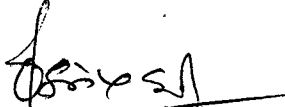
ANNEXURE -

COMPLIATION NO. I

SL. NO.	DESCRIPTION OF PAPERS	PAGE NO.
1.	ORIGINAL APPLICATION	1 - 11
2.	POWER (VAKALATNAMA)	12 - 00

Filed today
Syl
17/8/90

Lucknow Dated:
17-8-1990.


(O.P. Srivastava)
Advocate
COUNSEL FOR THE APPLICANT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. No. _____ OF 1990

Rajiv Kumar Pandey, aged about 28 years,
son of S.R. Pandey, resident of
A.30(B) Railway Quarters, LD Colony,
Alambagh, Lucknow.

..... APPLICANT

VERSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.
2. The Divisional Railway Manager, Northern Railway, Hazratganj, Lucknow.
3. The Senior Divisional Mechanical Engineer, Northern Railway, Hazratganj, Lucknow.

..... RESPONDENTS

DETAILS OF APPLICANT :

1. Particulars of the order against which the application is made.

The instant application is being filed seeking appropriate directions/orders to the Respondents to consider the case of applicant also for the regularisation of his services and also to treat him in continuous service all through out after 4.9.1981 with all consequential benefits.

2. Jurisdiction of the Tribunal :

The applicant declares that the subject matter of the order against which he wants redressal is within the jurisdiction of the Tribunal.

3. Limitation :

The applicant further declares that the subject application is within the limitation period prescribed in section 21 of the Administrative Tribunal Act, 1985.

Filed today
Noted
5/9/90
2/8/90
17/8/90

21/5/90 23/8/92

4. Facts of the case :

A/t

4.1 That the applicants ^{were} initially appointed as substitute casual labour ^{in the year 1980} on various dates under the Respondent No.3. ^{Representation made} A ~~chart~~ ^{detail} showing the initial date of the appointment of the applicant is being filed herewith as Annexure-1 to this application.

ANNEXURE -1

4.2 That while the applicant was functioning to the entire satisfaction of his superiors his services were orally terminated along with 439 similarly situated substitutes with effect from 4th September 1981 without giving any notice and without following the condition precedent required for effecting valid retrenchment.

4.3 That the applicant alongwith his colleague substitutes has represented his case through his Union to the Respondent No.2 requesting that ^{The} ~~he is~~ discharged simplicitor from service without any written order and without following the provisions of valid retrenchment was void abinitio and as such the applicant and other substitutes be restored to their position. A true copy of the letter dated 6th October 1981 written by the Divisional Secretary of Northern Railway Men's Union to the Respondent No.2 is being filed herewith as Annexure-2 to this application.

ANNEXURE-2

4.4 That when repeated demand of the applicant's Union regarding consideration of the cases of retrenched substitutes were not heeded to, a strike notice was served and then vide letter dated 16th June 1983 it was ordered that the cases of the retrenched substitutes be finalised

21/5/83 3/5/83

Al

in the light of the instructions of the Railway Board's letter dated 2.4.1983. A true copy of the letter dated 16th June 1983 is being filed herewith as Annexure-3 to this application.

ANNEXURE-3

- 4.5 That thereafter the Divisional Secretary, Northern Railwaymen's Union, Lucknow served a notice dated 4.8.1983 on the Respondents requesting them to consider the applicants and others in continuous service as they have been retrenched without following the provisions of Industrial Disputes Act read with the provisions of Railway Establishment Code and the Railway Establishment Manual. A true copy of the notice dated 4.8.1983 is being filed herewith as Annexure-4 to this application

ANNEXURE-4

- 4.6 That ^{later} ~~letter~~ on it was revealed that the termination of services of casual labour substitutes including the applicant was made on the ground that various casual labour substitutes had submitted forged record or their previous service. There was neither any reduction in the establishment nor there was any exigency of service warranting termination of services of the casual labour substitutes. Hence it was ordered that a scrutiny of record of all those casual labour substitutes working in the Loco shed be made and the casual labour substitutes be engaged in order of seniority and also screened and absorbed accordingly. A letter to that effect was also issued from the office of the General Manager to the Respondent No.2 ^{requir-} ~~regard~~ ing to engage the said casual labour substitutes in class IV vacancies in the Division. A true copy of the aforesaid letter dated 24.2.84 written by the General Manager to the Respondent No.2 is being filed herewith as Annexure-5 to this application.

ANNEXURE-5

21/12/84

4.7 That a copy of the aforesaid letter dated 24.2.1984 contained in Annexure-5 to this application was also endorsed to the Divisional Secretary, Northern Railway Men's Union apprising the development in the matter of engagement of substitutes in the Loco Shed vide letter dated 7.³~~1~~.1984, a true copy of which is being filed herewith as Annexure No.6 to this application.

ANNEXURE-6

4.8 That thereafter the applicants' records of service were found to be genuine on verification along with other casual labour substitutes and accordingly some casual labour substitutes were also offered appointments. Some of the casual labour substitutes were medically examined but were not offered appointment against the regular vacancies and their matter was left pending. Any way the applicants were ^{not} offered any appointment against regular class IV vacancies nor the applicants were reengaged even as substitute casual labours that is the same capacity from which they had been retrenched.

4.9 That some of the substitute casual labours thereafter filed a writ petition no. 2248 of 1985 before the Hon'ble High Court, Lucknow Bench, Lucknow claiming that their appointment in the light of decision holding that their record of service to be genuine. This writ petition was later on transferred to Central Administrative Tribunal, Circuit Bench, Lucknow and was registered as T.A. No. 1689 of 1987(T). This transfer application was later on allowed vide judgment and order dated 24.4.1989 directing the Respondents to appoint the petitioners of the aforesaid Writ Petition who have been found medically fit.

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- 4.10 That when the applicant approached the Respondents through Union for being engaged either as substitute casual labour or as Class IV employee against the regular vacancies, the applicants were apprised that matter was still under consideration and the appropriate orders will be passed soon by the Respondents. Since the vacancies were not available hence the applicant was not issued any appointment letter but was assured that as soon as vacancies are available the same will be offered to the applicant.
- 4.11 That thereafter the Divisional Secretary, Northern Railwaymen's Union apprised the applicant vide letter dated 27.7.1989 that the Respondent No.2 has declined to reinstate any casual labour substitutes of the ~~xx~~ running shed although the cases are genuine and hence the applicant may seek redressal of their grievances before the court of law. A true copy of the aforesaid letter dated 27.7.1989 apprising the applicant regarding the decision of the Respondent No.2 is being filed herewith as Annexure-7 to this application.
- 4.12 That the applicant had already completed more than 120 days of ~~xx~~ his continuous service before 4.9.1981 and as such he had acquired the status of the temporary railway servant much before 4.9.1981 and thus the services of the applicant could not have been dispensed with orally without following the provisions of termination of service of a temporary railway servant read with the provisions of Industrial Disputes Act 1947 on 4.9.1981.
- 4.13 That the applicant had been engaged as substitute casual labour against the clear vacancy in the Loco Shed, Charbagh and as such the applicant had been

ANNEXURE-7

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paid salary in the regular scale of pay along with all permissible allowances in the same manner as is payable to a regular Railway servant against that post. Hence the applicants had acquired the status of quasi permanent railway servant ~~in the eye of~~ ~~quasi permanent railway servant~~ in the eye of law before 4.9.1981.

- 4.14 That since the applicant had already completed more than 240 days of continuous service as contemplated under section 25-B of the Industrial Disputes Act 1947 hence ~~his~~ his service could only have been terminated in accordance with the provisions of section 25-F of the Industrial Disputes Act 1947 and as ~~such~~ the provisions of valid retrenchment had not been followed, the retrenchment of the applicant rendered null and void in the eye of law which has got no legal existence. Consequently the applicant is still in the service in the eye of law and is entitled to work and to get salary regular as usual.
- 4.15 That no notice of any kind whatsoever was given to the applicants disclosing the reasons for their discharge from service and no seniority list was displayed before effecting retrenchment. Even after verification of the service record neither any seniority list was prepared nor the principles of 'First come first served' was observed and the Respondents made appointments arbitrarily on the basis of 'pick and chose' policy. As a sequel to it various juniors to the applicant have been given appointment while the applicant has been left to suffer.

Sarvasri Waias Husain s/o Istiaq Husain	181 days
Vijay Kishore s/o Gopal Jee	161 "
Mool Chand s/o Moti Lall	159 "
Anag Pal Singh s/o Karxxxx M. Singh	159 "
Ram Kripal Singh s/o P.R. Singh	149 "

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Om Prakash s/o Virendra Singh	139 days
Sunil Massey s/o Jeewan Massey	136 "
Raju Peter Massey s/o Jeewan Massey	134 "
Kunwar Vijay Singh s/o R.L. Singh	125 "
Dhirendra Singh s/o Hari Ram Singh	121 "
Madan Lal s/o Uma Shanker	
Alique Ahmad s/o Mohd. Tahir	
Mohd. Munir s/o Mohd. Azim	
Sant Lal s/o Suraj Prasad	
Raj Kumar s/o Ambar Singh	
Nankau s/o Shiv Ram	

are some of the juniors who have been given appointments ignoring the applicant.

4.16 That again the Respondents are going to hold screening for making regular class IV employees' appointment. The applicant has come to know that ~~his~~ his name has not been included in the list prepared for the purpose of screening for the reasons best known to the Respondents. It may be the pleasure of this Hon'ble Tribunal to direct the Respondents to consider the name of the applicant also in the said screening to make appointment against the regular class IV vacancy.

4.17 That the applicant has already become over age. He ^{was} shocked to know that the Respondents are not willing to reinstate him although the case~~s~~ of the applicant has been found to be genuine. As the applicant's matter ~~was~~ under consideration, the applicant wasted several years in the hope that some favourable orders will be passed by the Respondents and the applicant will be able to serve the department soon after the final decision is taken and the vacancies are available. Now the applicant has lost every hope and he can only be rescued by the strong hands of this Hon'ble Tribunal.

21/5/12 9/12/12
5. Grounds for relief with legal provisions:

- i) Because the applicant had already completed more than 120 days of continuous service much before 4.9.1981.

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- ii) Because the applicant had acquired the status of temporary railway servant much before his discharge from service.
- iii) Because the applicant had also completed more than one year of continuous service under the provisions of Section 25-B of the Industrial Disputes Act and as such their termination from service was obviously retrenchment and since the provisions for affecting the retrenchment was wholly absent and wanting, the discharge of the applicant rendered null and void in the eye of law.
- iv) Because there was no reduction in the establishment or any kind of administrative exigencies which warranted the Respondents to discharge the applicant from service.
- v) Because the service of the applicant was discharged arbitrarily on collateral and extraneous reasons not tenable in the eye of law.
- vi) Because the applicant was discharged from service under apprehension that ~~the~~^{his} previous service record on the basis of which he was given the appointment of casual labour substitute was not genuine and since no opportunity was afforded to the applicant before discharging him from service on this very ground, the impugned action become penal and in transgression of the doctrine of fair play, equity and natural justice.
- vii) Because when the service records of the applicant have been found to be genuine, it was obligatory on the part of the Respondents to appoint the applicant against the regular vacancy.

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- viii) Because no seniority list was ever prepared by the Respondents either before 4.9.1981 or subsequent thereto after the record of service was verified and as such the appointments were made purely on 'Pick and chose' policy discriminating the applicant.
- ix) Because the juniors to the applicant have been retained in service while the applicant has been discharged.
- x) Because this Hon'ble Tribunal has already directed to give appointments to those who have been found medically fit but the Respondents have not extended the benefit of this judgment to the applicant.
- xi) Because the applicant remained in the hope to get appointment as per the assurance of the Respondents as ~~per~~ the service records ^{of} the applicant was found to be genuine on verification and as such the Respondents are bound to give appointment to the applicant and they cannot decline from it under the provisions of promissory estoppel. The applicant believing on the assurances of the Respondents acted against his own interest.
- xii) Because the applicant's retrenchment on 4.9.1981 was wholly unjustified, null and void in the eye of law and as such the applicant is continuing in service in the eye of law.
- xiii) Because the applicant's services could have only been retrenched in accordance with the provisions of Chapter XXVI of Establishment Manual read with paragraph 149 of Railway Establishment Code Vol. I and the provisions of section 25F of the Industrial Disputes Act 1947.

2/10/81

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- ix) Because the Respondents are bound to screen the applicant for the purposes to make appointment and the applicant cannot be ignored in any manner whatsoever.
- x) Because the action of the Respondents in not engaging the applicant is wholly arbitrary, malicious and violation of the provisions of Part III of the Constitution of India.

6. Details of the remedies exhausted:

The applicant declared that he has availed of all the remedies available to him under the relevant service rules etc.

7. Matters not previously filed or pending with any other Court :

The applicant further declares that he has not previously filed any application, writ petition or suit regarding the matters in respect of which this application has been made, before any court or any other authority or any other Bench of the Tribunal nor any such application, writ petition or suit is pending before any of them.

8. Reliefs sought :

In view of the facts mentioned in para 4 above the applicant prays for the following reliefs :

- a) This Hon'ble Tribunal may kindly be pleased to consider the applicant also for appointment as regular Class IV employee.
- b) The Hon'ble Tribunal may also be pleased to direct the Respondents to consider the applicant in continuous service as substitute casual labour, Loco Shed, Alambagh, Lucknow and further direct the Respondents to take work from the

21/12/2011

applicant and pay him salary regularly till the applicant is absorbed as regular Class IV employee.

- c) This Hon'ble Tribunal may kindly be pleased to direct the Respondents to treat the applicant as not validly discharged from the service on 4.9.81 and hence the applicant is entitled to continue in service with all consequential benefits.
- d) This Hon'ble Tribunal may also pass any other order which is found just and proper in the circumstances of the case.
- e) to award the cost of the application.

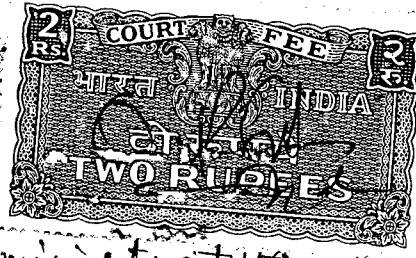
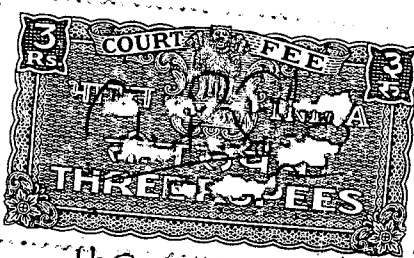
9. Interim order, if any prayed for :

Pending final decision on the application, the applicant seeks the following interim relief :-

This Hon'ble Tribunal may kindly be pleased to direct the Respondents to consider the name of the applicant also for making regular appointment in Class IV service during the pendency of the case,

- 10. In the event of application being sent by registered post, it may be stated whether the applicant desires to have oral hearing of the admission stage and if so, he shall attach a self-addressed post card or Inland letter, at which intimation regarding the date of hearing could be sent to him.
- 11. Particulars of Postal Order filed in respect of the application fee.
Postal Order No. B.02 409202 dated 14-3-90 for Rs. 50/-.
- 12. List of enclosures : Index - Compilation Nos. I and II.

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In the Central Administrative Tribunal, Allahabad
 व अयालत अधीमान् Circuit Bench, Lucknow महोदय
 वादी अपीलान्त श्री. Rajiv Kumar Pandey बकालतनामा
 प्रतिवादी रेंस्पॉण्डेंट Applicant

C.A. No. --- of 1990

Rajiv Kumar Pandey पनाम वापी (अपीलान्ट)
U.O.P. & others प्रतिवादी (रेंस्पॉण्डेंट)
 व० मुकद्दमा सन् पेणी की ता० १० ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री ओ० पी० श्रीवास्तव एडवोकेट
 एमू श्री जी पी श्रीवास्तव, एडवोकेट
 द६७, पुराना महानगर निकट फातिमा अस्पताल, लखनऊ-२२६००२ महोदय

नाम केवल
 मुकद्दमा न०
 नाम करीफन

मैं अपना वकील नियुक्त करके प्रतिज्ञा (इफरार) करता हूं और लिखे
 देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील
 द्वारा जो कुछ पेंरवी व जबाब देही व प्रश्नोंत्तर करें या कोई कामज दाखिल
 करें या लौटावें या हमारी ओर से छिगरी जारी करावे और रुपया वसूल
 करें या मुलहनामा व इकवाल दावा तथा अपील निगरानी हमारी ओर
 से हमारी या अपने हस्ताक्षर से दाखिल करें और तसदीक करें मुकद्दमा
 उठावें या कोई रुपया जमा करें या हमारी बिपक्षी (फरीकसानो) का
 दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती)
 रसीद से लेंगे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वृष्ट
 सय कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार
 करता हूं कि मैं हर पेणी पर स्वयं या किसी अपने पेंरीकार की भेजता
 रहूंगा अगर मुकद्दमा अदम पेंरवी में एक तरफा मेरे खिलाफ फैसला हो
 जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह
 पकालतनामा लिख दिया प्रमाण रहे और समय पर काम आये।

Accepted

हस्ताक्षर राजीव कुमार

साक्षी (गवाह) _____ साक्षी (गवाह) _____

दिनांक _____ जहीमा _____ सन् १० ई०