CENTRAL ADMINISTRATIVE TRIBUNAL

CIRCUIT BENCH, LUCKNOW

17-5-90

Registration No. 174 of 1990(L)

APPLICANT(S) A. Singh

RESPONDENT(S) U O I

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 ?	
c) Have six complete sets of the application been filed ?	
3. a) Is the appeal in time ?	Yes
b) If not, by how many days it is beyond time?	
c) Has sufficient cause for not making the application in time, been filed?	
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 ?	No Yes (~~Manuscript~~)
c) Are the documents referred to in (a) above neatly typed in double space ?	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

No. 174/90

Case No. 9

Application

Date of Filing

(1) A-42

(2)

(3) Date: 23.10.92

(4) A-45

(5)

Application CM. No. 345/90, 340/90. 439 to A 42

(6)

Seeded out / [illegible]

(7)

Copy of [illegible] for [illegible]

[illegible]

[illegible]

20.10.93

A2

Particulars to be Examined	Endorsement as to result of examination
[illegible] original/duplicate [illegible] signed ?	[illegible]
[illegible] of the application [illegible] filed ?	[illegible]
[illegible] with the Original ?	
[illegible]	
[illegible] Pages Nos _____ ?	
[illegible] the file size envelopes [illegible] full addresses of the [illegible] filed ?	No
[illegible] address the [illegible] ?	[illegible]
[illegible] of the parties [illegible] tally with [illegible] indicated in the application ?	[illegible]
[illegible] translations certified [illegible] supported by an [illegible] affirming that they [illegible] ?	NA
[illegible] the forms of the case [illegible] of the application ?	[illegible]
a) [illegible]	
b) [illegible] distinct heads ?	
c) [illegible] consecutively [illegible]	
d) Typed in double space on one side of the paper ?	
[illegible] particulars for interim [illegible] prayed for indicated with [illegible] ?	[illegible]
[illegible] all the remedies have been exhausted.	[illegible]

Either/

O.A 174/90 A3

18-5-90 Hon. Mr Justice K. Nath, V.C.
Hon. Mr K. J. Raman, AM

Application to file together is allowed. The question of limitation fairly arises in this case. We direct the applicant to file statement indicating how the case may be entertained having regard to the law of limitation applicable there. List on 24-7-90 for orders.

AM. VC.

24.7.90 Hon'ble Mr. Justice K. Nath, V.C.
Hon'ble Mr. K. Obayya, A.M.

On the adjournment application of the Counsel for the applicant, the case is listed for orders on 30th Aug. 1990.

(A.M.) (V.C.)

30.8.90 Hon'ble D.K. Agrawal J.M.
" K. Obayya A.M.

Sri C.P. Srivastava has sought adjournment on the ground of illness. Allowed. However, it may be noted that the case has not been admitted and the Counsel for the applicant has been seeking time for admission. Listed on 24.9.90 for ~~[illegible]~~ hearing on admission.

(A.M.) (J.M.)

25.7.91

D.R.

Applicant's side is present. But he did not comply the order of Hon. Tribunal dt. 18.5.90. He is ordered to comply this by 26.9.91. List it for compliance of order dt. 18.5.90 by 26.9.91.

26.9.91

D.R.

Counsel for the applicant is present case is listed on 6/12/91 for compliance of order dt. 18.5.90.

[illegible]

D.R.

Counsel for applicant is present. He is directed to comply the order dt. 18.5.90 by 26.9.91

O. A. 174/90

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26.2.92
D. R.

counsel for the applicant is present. He desires to file amendment application by 26/3/92.

O.P. is absent.

26.3.92
D R

counsel for the applicant did not file Amendment application till to day. case is listed before me for 28/5/92.

28.5.92
D. R

counsel for the applicant is directed to file amendment application by 18/8/92.

18-8-92 Applicant failed to give reply of the order dated 18.5.90. More than Two years have elapsed. Place this case the

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[illegible] TRIBUNAL

[illegible]

[illegible]

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. Obayya, 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 their salary regularly.

2. 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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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 tihin 3 months from the date of receipt of a copy of this judgment.

No order as to costs.

A.M. V.C.

Shakeel/- Lucknow: Dated: 23.10.92.

17-5-90

[illegible]

[illegible] (L)

[illegible] ... Applicants

[illegible]

[illegible] ... Respondent

[illegible]

[illegible]

[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]

[illegible]

Filed [illegible] Noted for 18/5/90

17/5/90

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

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O.A. NO. 194 OF 1990 (L)

17-5-90

1. Ambika Singh, aged about 20 years, son of Baij Nath, resident of Pandariba, Lucknow.

2. Kailash Nath Tripathi, aged about 32 years, son of Sri Shiv Murti resident of LD/55-B, Running Shed Colony, Alambagh, Lucknow.

3. Sudhir Kumar Shukla, aged about 29 years, son of R.K. [illegible] resident of LD/45-B, Graham Road Alambagh, Lucknow.

4. Bashistha, aged about 34 years, son of Jaishree, resident of Sujanpura, Alambagh, Lucknow.

5. Vishwa Nath, aged about 27 years, son of Muniraj, resident of LD-28/B Running Shed, Alambagh, Lucknow.

6. Bipin Kumar, son of Madanji, resident of C/o Applicant No. 1.

..... APPLICANTS

VERSUS

1. Union of India through the General Manager, Northern Railway, Baroda House, New Delhi.

2. The Divisional Railway Manager, Hazratganj, Lucknow.

3. The Senior Divisional Mechanical Engineer, Northern Railway, Hazratganj, Lucknow. ..... RESPONDANTS.

DETAILS OF APPLICANTS:

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

The instant application is being filed seeking appropriate directions/orders to the Respondants to consider the case of the

Mitra [illegible]

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applicants also for the regularisation of their services and also treat them in continuous service throughout after 4.2.1981 and 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 matter of the order is within the limitation period prescribed in section 21 of the Administrative Tribunals Act, 1985.

4. Facts of the case :

4.1 That the applicants were initially appointed as casual labourers on various dates under the respondent No. 3. A chart showing the details of the appointment of the applicants is being filed herewith as annexure to this application.

Annexure-1

4.2 That the applicants were functioning to the complete satisfaction of their superiors. The services were only terminated vide order dt 28.2.1984 without giving any reasons

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tes with effect from th September 1981 without giving any notice and without following the condition precedent required for effecting valid retrenchment.

4.3 That the applicants alongwith their colleague substitutes ~~have~~ represented their case through their Union to the Respondent No. 2 requesting that ~~they are~~ their discharge simplicitor from service without any written order and without following the provisions of valid retrenchment was void ab initio and as such the applicants 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 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 applicants' Union regarding consideration of the cases of retrenched substitutes ~~the~~ was 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 in the light of the instructions of the Railway Board's letter dated 2.4.1983. A true copy

Para 11E

of the letter dated 18th June 1983 is being

ANNEXURE-3 filed herewith as annexure to this application

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

ANNEXURE-4 as annexure to this application.

4.6 That latter on it was revealed that the termination of service of casual labour substitutes including the applicants was made on the ground that various casual labour substitutes had submitted forged records of their previous service. There was neither any reduction in the establishment nor there was any exegency 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 seve

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shed be made and the casual labour substitutes be engaged in order of seniority and also screened and endorsed accordingly. A letter to that effect was also issued from the office of the General Manager to the Respondent No.2 requiring to engage the said casual labour substitutes in Class IV vacancies in the Division. A true copy of the aforesaid letter dated 24.4.1984 written by the General Manager to the Respondent No. 2 is being filed herewith as Annexure-5 to this application.

ANNEXURE-5

4.7 That a copy of the aforesaid letter dated 24.4.1984 contained in Annexure-5 to this application was also endorsed to the Divisional Secretary, Northern Railwaymen's Union apprising the development in the matter of engagement of substitutes in the Loco Shed vide letter dated 7.9.1984, 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 according by one of the casual

labour substitues were 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 either against regular as Class IV vacancies or as substitute casual labour that in the same capacity from which they had been retrenche

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 inter alia praying that they be absorbed/appointed as their record of service was found genuine on verification. 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 give appointment to the petitioners of the aforesaid Writ Petition who have been found medically fit.

4.10 That when the applicants approached the Respondants through their Union for being engaged

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either as substitute casual labours or as class IV employees 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 applicants were not issued any appointment letter but they were assured that as soon as vacancies are available the same shall be offered to the applicants.

4.11 That thereafter the Divisional Secretary, Northern Railwaymen's Union apprised the applicants vide letter dated 27.7.1989 that the Respondent No.2 has declined to reinstate any casual labour substitutes of the running rhea although the cases are genuine and hence the applicants may seek redressal of their grievances before the court of law. A true copy of the aforesaid letter dated 27.7.1989 apprising the applicants regarding the decision of the respondent No. 2 is being filed herewith as Annexure-7 to this application.

4.12 That all the applicants have already completed more than 120 days of their continuous service during 4.1.1988 and as such they had acquired

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the status of the temporary railway servant much before 4.9.1981 and thus the services of the applicants could not have been dispensed with orally without following the provisions of termination of services of a temporary railway servantsand with the provisions of Industrial Disputes Act 1947 on 4.9.1981.

4.13 That the applicants have been engaged as substitute casual labours again the clear vacancies in the Jodhpur, Chattogh and as such the applicants had been paid salary in the regular scale of pay alongwith all permissible allowances in the same manner as is payable to a regular railway servant against the post. Hence the applicants had acquired the status of quasi permanent railway servant in the eyes of law before 4.9.1981.

4.14 That since the applicants had already completed more than 240 days of continuous service as contemplated under section 25-F of the Industrial Disputes Act 1947 hence their services could only have been terminated in accordance with the provisions of Section 25-F of the Industrial Disputes Act 1947 and as the provisions of valid retrenchment has not been followed, the retrenchment of the applicants is therefore null and void in the eye of law which has got no legal existence. Contd...

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the applicants are still in the service in the eye of law and are entitled to work and to get salary regularly 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 done first Served' was observed and the respondents made appointments arbitrarily on the basis of 'Pick and Chose' policy. As a sequal to it various juniors to the applicants have been given appointments while the applicants have been left to suffer Sarvasri Madan Lal, son of Jwa Shanker, Alique Ahmad son of Mohd Bashir, Mohd. Munir son of Mohd Amin, Mant Lal, son of Suraj Prasad, Raj Kumar son of Mukt Singh, Mankau son of Shiv Ram are some of the juniors who have been given appointments ignoring the applicants.

4.16 That again the respondents are going to hold screening for Mekan Wagon class IV employees' appointment. The applicants have come to know that their names have not been included in the

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list prepared for the purpose of screening for the reasons best known to the Respondents. It may be the pleasure of Hon'ble Tribunal to direct the Respondents to consider the name of the applicants also in the said screening to make appointment against the regular Class IV vacancies.

4.17 That the applicants have already become over age. They shocked to know that the Respondents are not willing to reinstate them although the cases of the applicants have been found to be genuine. As the applicants' matter was under consideration, the applicants wasted several years in the hope that some favourable orders will be passed by the Respondents and the applicants will be able to serve the department soon after the final decision is taken and the vacancies ~~and the vacancies~~ are available. Now the applicants have lost every ray of hope and now they can only be rescued by the strong hands of this Hon'ble Tribunal.

5. Grounds for relief with legal provisions:

i) Because the applicants has already completed more than 120 days of continuous service much before 4.9.1981.

ii) Because the applicants had acquired the status of temporary railway servants much before

अधिवक्ता

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their discharge from service.

iii) Because the applicants 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 effecting the retrenchment was wholly absent and wanting, the discharge of the applicants rendered null and void in the eye of law.

iv) Because there was no reduction in the establishment or any kind of administrative exegencies which warranted the Respondents to discharge the applicants from service.

v) Because the service of the applicants was discharged arbitrarily on collateral and extraneous reasons not tenable in the eye of law.

vi) Because ~~xxxxxxxxxx~~ the applicants were discharged from service under apprehension that their previous service record on the basis of which they were given the appointments of casual labour substitutes n was not genuine, and since no opportunity was afforded to the applicants before discharging them from service

A2C

on this very ground, the impugned action become penal and in transgression of the doctrine of fair play, equity and natural justive.

vii) Because when the service records of the applicants have been found to be genuine, it was obligatory on the part of the Respondents to appoint the applicants against the regular vacancies.

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 applicants.

ix) Because the juniors to the applicants have been retained in service while the applicants have been discriminated.

x) Because the 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 applicants.

xi) Because the applicants remained in the hope to get appointment as per the assurance of the Respondents as the service records of

the applicants was found to be genuine on verification and as such the Respondents are bound to give appointment to the applicants and they cannot decline from it under the provisions of promissory estopple. The applicants believing on the assurances of the Respondents acted against their own interest.

xii) Because the applicants termination on account was wholly unjustified, null and void in the eye of law and as such the applicants are continuing in service in the eye of law.

xiii) Because the applicants services could have only been terminated in accordance with the provisions of Chapter XXVII 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.

ix) Because the Respondents are bound to screen the applicants for the purpose to make appointment and the applicants cannot be ignored in any manner whatsoever.

x) Because the act of the Respondents in not engaging the applicants is wholly arbitrary, malicious and violative of the provisions of

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Part III of the Constitution of India.

6. Details of the remedies exhausted:

The applicants 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 applicants further declare that they have 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 please to direct the applicants also for appointment in regular class IV employees.

b) The Hon'ble Tribunal may also be please to direct the Respondents to consider the applicants in continuous service as substitute casual workers, also shall

मनिलाल सिंह

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Alambagh, Lucknow and further direct the Respondants to take ~~over~~ work from the applicants and pay them salary regularly till the applicants are absorbed as regular Class IV employees.

c) This Hon'ble Tribunal may kindly be pleased to declare the discharge of the applicants from service with effect from 4.9.1981 as illegal and arbitrary and direct the Respondants to treat the applicants in continuous service with all consequential benefits.

d) This Hon'ble Tribunal may also pass any 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 decisipn on the application, the applicant seeks the following interim relief:

This Hon'ble Tribunal may kindly be pleased to direct the Respondants to consider the name of the applicants also for making regular appointments in Class IV service during the pendency of the case as the regular appointments to Class IV employees are going to be made shortly.

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10. In the even of application being sent by registered post, it may be stated whether the applicants desire to have oral hearing at 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.
No - 8 02 40 9891
Dated - 26-3-90
Amount - Rs 50/-

12. List of enclosure-s : Index - Compilation No.I and II.

VERIFICATION

I, Ambika Singh, aged about 33 years, son of Sri Baij Nath Singh, discharged Substitute Casual Labour, applicant No. 1 and Pairokar on behalf of rest of the applicants do hereby verify that the contents of paras 1 to 12 of this application are true to my personal knowledge and that I have not suppressed any material fact.

Lucknow Dated:
1990.

Signature of the Applicant

ADVOCATE.

In The Central Administrative Tribunal, Allahabad
Lucknow Bench, Lucknow

बअदालत श्रीमान् महोदय

वादी (अपीलान्ट)

श्री Anjika Singh Fatness Applicants की

प्रतिवादी (रेस्पाडेन्ट)

वकालतनामा

C.A. No. 130(L)

विषय

वादी (अपीलान्ट)

Anjika Singh Fatness Advocates

बनाम

प्रतिवादी (रेस्पाडेन्ट)

Union of India Fatness Respondents

सं० मुकद्दमा सन् पेशी की ता० १९ ई०

ऊपर लिखे मुकद्दमा में अपनी ओर से श्री ओ० पी० श्रीवास्तव एडवोकेट
एवं श्री ए० पी० श्रीवास्तव, एडवोकेट

८६७, पुराना महानगर निकट फातिमा अस्पताल, लखनऊ-२२६००२ महोदय

को अपना वकील नियुक्त करके प्रतिज्ञा (इकरार) करता हूं और लिखे देता हूं इस मुकद्दमा में वकील महोदय स्वयं अथवा अन्य वकील द्वारा जो कुछ पैरवी व जवाब देही व प्रश्नोत्तर करें या कोई कागज दाखिल करें या लौटावें या हमारी ओर से डिगरी जारी करावे और रुपया वसूल करें या सुलहनामा व इकबाल 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 विपक्षी (फरीकसानी) का दाखिल किया हुआ रुपया अपने या हमारे हस्ताक्षर युक्त (दस्तखती) रसीद से लेवे या पंच नियुक्त करें—वकील महोदय द्वारा की गई वह सब कार्यवाही हमको सर्वथा स्वीकार है और होगा मैं यह भी स्वीकार करता हूं कि मैं हर पेशी पर स्वयं या किसी अपने पैरोकार को भेजता रहूंगा अगर मुकद्दमा अदम पैरवी में एक तरफा मेरे खिलाफ फैसला हो जाता है उसकी जिम्मेदारी मेरे वकील पर नहीं होगी इसलिए यह वकालतनामा लिख दिया प्रमाण रहे और समय पर काम आवे।

नाम अदालत
मुकद्दमा नं०
नाम फरीकैन

Accepted

हस्ताक्षर

साक्षी (गवाह) (4) 6/2/12 साक्षी (गवाह)

(5) Vishnath

दिनांक महीना (6) सन् १९ ई०

(7) Rajiv Kumar

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, LUCKNOW

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T.A. No. 179 OF 1990 (L)

Ambika Singh and Others ..... Applicants

V.R.S.

Union of India and Others ..... Respondents.

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2.	Annexure - 2	Letter dated 6th October 1981.	2 - 00
3	Annexure - 3	Copy of [illegible] 30.	3 - 00
4.	Annexure - 4	[illegible] 1986.	4 - 9
5	Annexure - 5	Letter [illegible] 1984.	10 - 00
6	Annexure - 6	Letter [illegible] 7.3.198[illegible]	11 - 00
7.	Annexure - 7	Letter [illegible] 27.7.198[illegible]	12 - 00

Lucknow, Dated:
January , 1990

Advocate.

C

[illegible]

[illegible] A-27

[illegible]

[illegible]

[illegible]

[illegible]	[illegible]	[illegible]	[illegible]
[illegible]	[illegible]	[illegible]	43%
2.	[illegible]	[illegible]	15[illegible]
[illegible]	[illegible]	[illegible]	2[illegible]
[illegible]	[illegible]	[illegible]	17[illegible]
3.	[illegible]	[illegible]	[illegible]
3.	[illegible]	[illegible]	43[illegible]

A+.C

[illegible]

Lucknow

Case No. OF 1990

Ambika Singh and others ..... applicants

VERSUS

Union of India and others ..... Respondents.

(2)

ANNEXURE-S

Northern Railwaymen's Union

Phone: { Office : 516
Res. : 517

(Registered and Recognised)

AFFILIATED TO : ALL INDIA RAILWAYMENS' FEDERTION AND HIND MAZDOOR SABHA

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

Near Guard's Running Room
Charbagh,
Lucknow. Dated 6.10.1981

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 ~~been~~ 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.

The union would 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 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.

Attested True

ARC

LUCKNOW BENCH, LUCKNOW

O.A. NO. OF 1990

Ambika Singh and others ..... applicants

VERSUS

Union of India and others ..... Respondents.

(3)

ANNEXURE-3

NORTHERN RAILWAY

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

Headquarters Office,
Baroda House,
New Delhi.

D.O.No.381-E/1-VI/LS/LKO/BVI

Dt. 16 June,1983.

My dear Chatta,

Re:Strike notice served on the Sr.DME/N.Rly.,Lucknow by the Uttar Railway Karmchari 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 categorical 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.

Attested

ATC

Case No. ..... of 1990

(4)

Ambika Singh and others ..... Applicants

Versus

Union of India and others ..... Respondents.

ANNEXURE-4

4-8-1983

NOTICE

On behalf of Shri Kedhey Shyam - - - - - - and 438 others as detailed in Annexure 'A' I/o Shri V.A. Trivedi, Divisional Secretary, Northern Railway Men's Union Charbagh - - - - - - - - - (Home office address) - - - - - - - - - - - - - - - - Lucknow

Through :- Shri V.A. Trivedi
The Divisional Secretary
Northern Railway Men's Union
Charbagh - - - - - - - - - (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 Kedhey Shyam - - - - - - and 438 others as detailed in Annexure 'A' I advise you this notice to inform you as under :-

1. That the above said applicants or substitutes and have obtained the status of temporary

contd..2

ATC

(5)

A31

staff. 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-rolls of the above industrial establishment of the employers and their services are continuous. But they have been laid off with effect from 4th oct-1981 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

(6)

A32

7. That the above workmen have daily been attending their place of work for duties since 4th 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 4th 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 one month in writing as required under section 25F of the Industrial Dispute 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 3-3-85 ignoring the rightful and legal claim of the above workmen.

12. That the employers have changed the service conditions of the workmen by reducing the

contd...4

A C Sd

number of unemployed person, by employing the junior workmen ignoring the rightful, valid and legal claims 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 retronchment 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 the above named workmen with full benefits of wages eight from 4th 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 4th oct 1981 (date) and were subsequently retrenched from service without any

contd..5

(8)

A34

prior notice of one month or payment of their wages in lieu of notice, on3-8-83 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 paras 1 to 10 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.

Yours faithfully,

LUCKNOW

DATED: 4 -8-1983

(..P. TRIVEDI)
Divisional Secretary
Northern Rly Men's Union
Lucknow

APC

LUCKNOW BENCH, LUCKNOW

O.A. NO. OF 1990

Ambika Singh and others ..... Applicants

VERSUS

Union of India and others ..... Respondents.

Part of ANNEXURE-4

Phone: { Office: 516
Res. : 517

Northern Railwaymen's Union

(Registered and Recognised)

AFFILIATED TO : ALL INDIA RAILWAYMENS' FEDERTION AND HIND MAZDOOR SABHA

Near Guard's Running Room
Charbagh,
Lucknow. Dated 1/9/83

Ref. NRMU/ 21/21

(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,

Sub: 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 of 4.8.83 is enclosed for ready reference.

Yours faithfully,

(V.P. Trivedi)
Divisional Secretary.

A+C

Ambika Singh and others ..... Applicants

VERSUS

Union of India and others ..... Respondents.

(10)

ANNEXURE-S

NORTHERN RAILWAY

Headquarters Office,
Baroda House,
NEW DELHI.

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

Dated 24-2-1984.

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

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).

APC

True Copy

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

O.A. No. _____ OF 1990

Amrik Singh and others ..... Applicants

VERSUS

Union of India and others ..... Respondents.

11

ANNEXURE-G

NORTHERN RAILWAY

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

DIVISIONAL OFFICE
LUCKNOW

Dated 7th ~~Feb~~ Mar.,84

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

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,

for Divl. Railway Manager,
LUCKNOW

ATC

V. P. Trivedi
Divisional Secretary
Northern Railwaymen's Union
Member Working Committee
All India Railwaymen's Fedration

ANNEXURE 7

(12)

PHONE { Resi. : 517
Office : 516
Oeg. : 278
New Delhi : Rly-2601

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

Office :
Near Guard's Running Room
Charbagh, LUCKNOW

NRMU/26(2)
No.....

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 3.9.81/4.10.81 have been given job. The case of Shri Ambika Singh was being discussed continuously in the P.N.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

[illegible]

C.M. Appl. No. 345/90 (L)
[illegible] (L)

1. [illegible], age about [illegible] years, son of [illegible], [illegible] Ramdaiya, Lucknow.

2. Kailash Nath Tripathi, age about 32 years, son of [illegible] Mishra, resident of [illegible], Colony, [illegible], Lucknow.

3. [illegible] Kumar [illegible], age about 29 years, son of [illegible], resident of [illegible], [illegible] Nagar, Lucknow.

4. [illegible], age about 3[illegible] years, son of [illegible], resident of Gulrampura, [illegible], Lucknow.

5. [illegible] Nath, age about 27 years, son of [illegible], [illegible] Lucknow.

6. Bipin Kumar, son of Madanji, r/o c/o Applicant No. 1. ... Applicants

Union of India and others ..... Respondents.

[illegible]

The [illegible] most respectfully submit as under:-

1. That the applicants have raised common question of law and facts which can be considered and decided by a common judgment.

.....

2. That the applicants are similarly situated [illegible] in question raised by them is similar in nature [illegible]

It is, therefore, prayed that this Hon'ble Tribunal may kindly be pleased to allow the applicants to file joint application for the sake of ends of justice.

For this act of kindness the applicants shall be highly obliged.

Lucknow dated:
January , 1990.

Counsel.

Advocate.

Bench Copy

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
LUCKNOW BENCH, LUCKNOW

C.A. No. 395/90
O.A. No. 324 of 1990

1. Ambika Singh, aged about 23 years, son of [illegible], resident of [illegible], Lucknow.

2. Kailash Nath Tripathi, aged about 30 years, son of [illegible] Murti resident of 20/55-B, Running Shed Colony, [illegible], Lucknow.

3. Sudhir Kumar Shukla, aged about 29 years, son of [illegible] resident of [illegible]/45-3, Station Road Alambagh, Lucknow.

4. Vashistha, aged about 34 years, son of [illegible], resident of Sujanpura, Alambagh, Lucknow.

5. Vishwa Nath, age about 27 years, son of [illegible], resident of L--28/B Running Shed, Alambagh, Lucknow.

6. Bipin Kumar, son of Madanji R/o c/o Applicant No-1 .... APPLICANTS

VERSUS

Union of India and others ..... RESPONDENTS.

APPLICATION FOR PERMISSION TO FILE JOINT APPLICATION ON BEHALF OF APPLICANTS.

The applicants above named most respectfully submit as under:-

1. That the applicants have raised common question of law and facts which can be considered and decided by a common judgment.

... 2.

2. That the applicants are similarly situated and the question raised by them is similar in nature. It

It is ~~xxx~~ therefore prayed that this Hon'ble Tribunal may kindly be pleased to allow the applicants to file joint application for the sake of ends of justice.

Further and in addition the applicants shall be highly obliged.

Lucknow dated:
January , 1991.

~~APPLICANTS~~.

Srivastava
ADVOCATE.