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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
BOMBAY BENCH, 'GUESTAN' BUILDING NO.6
PRESCOT ROAD, BOMBAY 1

O.A.NOs. 971/92 and 972/92

Ayyub Khan Aliyta Khan ..Applicant
(in O.A.No.971)

Mohd. Iqbal Sk.Gambhir Applicant
(in O.A.No.972/92)

V/s.

Union of India through
General Manager, Central Railway,
Bombay V.T. & 4 others. ..Respondents

Coram: Hon.Shri Justice M.S.Deshpande, V.C.
Hon.Shri P.P.Srivastava, Member(A)

ORAI JUDGMENT:

DATED: 22.8.95

(Per: M.S.Deshpande, Vice Chairman)

Applicants present in person.Mr. S.C.Dhawan, counsel for the respondents. The facts in both these case are identical and it would be enough to refer broadly to the averments in O.A.No. 971/92.

2. The applicants produced a casual labour card to the effect that they were engaged by the respondents from 1980 to 1983 and it was on the basis of that card that the applicants came to be engaged as casual labourer though there was prohibition against engagement of fresh casual labour. The applicant was medically examined in August 1986. Later the respondents discovered that the card produced by the applicant was bogus and a notice was sent on 18.12.86 to the applicant requiring him to show cause within 15 days why his services should not be terminated. According to the applicant even before he could

send his reply the respondents terminated his services. It is the contention of the respondents that the applicant absconded from service. The applicant has sent a notice in October 1990 to the respondents making a grievance of his termination. The respondents sent a one line reply to that application and so the applicant approached the Conciliation Officer and Central Labour Commissioner at Nagpur for conciliation or in the alternative reference for adjudication under the Industrial Disputes Act, on 10.1.91. The respondents reply to this application was that the applicant had absconded from service. After a discussion before the conciliation officer he sent the record and his report to Respondent no.5 Secretary, Ministry of labour, Government of India who by the order dated 16.7.92 rejected the request for reference on the ground that applicant was appointed on the basis of a false/bogus card and was absconding from duty. The submission of the applicant is that the matter could not have been decided by the Respondent No.5 and he exceeded his jurisdiction and a reference should have been made to the labour Court for adjudication. The applicant has therefore approached the Tribunal for appropriate reliefs.

3. The respondents contended that an enquiry was held into the conduct of the application and the card produced by him was found to be bogus one and that he had absconded from service. It is however clear that it was only an internal enquiry made by the respondents and there was no departmental proceedings against the applicant in respect of the charges which are sought to be made out by the reply. Since the matter had been taken for conciliation and conciliation had failed and the conciliation officer had made report i.e., Respondent No.5 the appropriate Government could have made only a reference to the proper forum for adjudication instead of taking upon itself the responsibility of deciding the merits of the case of the applicant.

4. We, therefore, find that the applicants are entitled ~~for~~ ^{to the} reliefs ^{claimed}. The order passed by

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the respondents on 16.7.92, Annexure II, in each of the two cases are set aside and the respondents are directed to make a reference for adjudication to the Labour Court within two months from the date of receipt of a copy of this order. No order as to costs,

(P.P.Srivastava)
Member(A)

(M.S.Deshpande)
Vice Chairman