

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 1049 of 1993.

Dated this Wednesday, the 24th day of November, 1999.

Allwyn John Shikari, Applicant.

Shri D. Adsule, Advocate for the applicant.

VERSUS

Union of India & Others, Respondents.

Shri S. C. Dhavan, Advocate for Respondents.

CORAM : Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

: Hon'ble Shri B. N. Bahadur, Member (A).

(i) To be referred to the Reporter or not ?
(ii) Whether it needs to be circulated to other Benches
of the Tribunal ?
(iii) Library.

R. G. Vaidyanatha
(R. G. VAIDYANATHA)
VICE-CHAIRMAN.

os*

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH.

ORIGINAL APPLICATION NO.: 1049/93

Dated this Wednesday, the 24th day of November, 1999.

CORAN : Hon'ble Shri Justice R. G. Vaidyanatha,
Vice-Chairman.

Hon'ble Shri B. N. Bahadur, Member (A).

Allwyn John Shikari,
Residing at -
Navjeevan Housing Society,
Anandwadi, Satana Road,
Manmad. ... Applicant.

(By Advocate Shri D. Adsule)

VERSUS

1. Bridge Engineer,
Central Railway, Manmad.
2. Chief Engineer,
Central Railway,
Byculla, Bombay.
3. General Manager,
Central Railway, Manmad.
4. Union of India through
the Respondent No. 1. ... Respondents.

(By Advocate Shri S. C. Dhawan)

OPEN COURT ORDER

PER : Shri R. G. Vaidyanatha, Vice-Chairman.

In this application the applicant is challenging the order of termination dated 17.05.1993. Respondents have filed reply opposing the application. We have heard the Learned Counsel appearing on both sides.

R.W
... 2

2. The applicant was engaged as a Casual Labourer in the Central Railway and worked for some time. After some time he was engaged as a monthly rated casual labourer. Subsequently, the impugned order of termination came to be passed. Being aggrieved by that order, the applicant has approached this Tribunal. He is challenging the order of termination as illegal and arbitrary.

3. The respondents in their reply have stated that the sanction for the project where the applicant was working came to an end, therefore, the services of the applicant and other labourers came to be terminated.

4. There is no tenure of appointment for a casual labourer. He could be engaged as long as there is work and not otherwise. It is only after the casual labourer is regularised and appointed on regular basis he becomes a permanent servant and his services cannot be terminated, except according to law. As far as the casual labourers are concerned, their services can be continued as long as there is work. In this case, the respondents have stated that the sanction for the project came to an end and therefore, the services of the applicant came to be terminated. The Learned Counsel for the applicant contended that many juniors of the applicant have been retained but applicant has been singled out. There is no such allegation in the Original Application. No documents or materials are produced before the Tribunal to show that any of the junior of the applicant have

been retained by the respondents in the said project. On the other hand, the respondents have produced exhibit-III-A which is a notice issued to all the labourers about their termination of service alongwith a list of MRCL Staff working under the particular project. There are names of some 35 persons mentioned in the list. The applicant's name is at sl. no. 23. Therefore, 22 persons above the applicant and about 12 persons below his name, have also been included in the order of termination. There is no material on record to show that applicant's juniors are retained by the department. If the services are terminated for want of work or on the ground that sanction to the project has come to an end, it cannot be said that the order of termination is illegal or arbitrary, particularly when the applicant is not a permanent Railway servant but is only a casual labourer. Therefore, we cannot grant any relief to the applicant. It may be, that even a casual labourer whose services have been terminated, may be entitled to regularisation under the Regularisation Scheme, provided the applicant has the required service eligibility qualification and other conditions mentioned in the Regularisation Scheme and subject ofcourse, to his seniority. This the applicant will get in usual course of time, provided he is entitled to the same under the rules.

5. We are not even going to the question of bogus labour card mentioned in the reply, since it is not relevant for our present purpose.

6. In the result, the application fails and is dismissed.

No order as to costs.

B. N. Bahadur

(B. N. BAHADUR)

MEMBER (A).

R. G. Vaidyanatha

(R. G. VAIDYANATHA)

VICE-CHAIRMAN.

OS*

CENTRAL ADMINISTRATIVE TRIBUNAL
MUMBAI BENCH

R.P. No.: 59/99 in O.A. No.: 1049/93.

Dated this Tuesday, the 4th day of January, 2000.

CORAM : Hon'ble Shri Justice R.G. Vaidyanatha, Vice-Chairman.
Hon'ble Shri B.N. Bahadur, Member (A).

Allwin John Shikari ... Applicant.
VERSUS
Union of India & Others ... Respondents.

ORDER ON CIRCULATION

Per : Shri Justice R. G. Vaidyanatha.

This is a Review Petition seeking review of our judgement dated 24.11.1999 in O.A. No. 1049/93. We have perused the contents of the Review Petition and gone through the entire case file.

2. We have pointed out in our order that applicant was only a casual labourer and not a permanent Government servant. The very tenure of a casual labourer is temporary, unlike the tenure of a permanent Government servant. When there is no work, a casual labourer can be disengaged. Strictly speaking, it is not a case of termination of service at all to call for a show cause notice or a departmental enquiry.

We do not find any merit in any of the grounds now urged in the review petition. The provision for review cannot be used for having a second round of litigation by agitating the matter once again.

In our view, there is no apparent error on record. No grounds are made out calling for review of our order. If the applicant is aggrieved by our order on merits, the remedy is elsewhere and not certainly by way of review petition.

3. In the result, the Review Petition is rejected by this order on circulation.

B.N.Bahadur
(B.N. BAHADUR)
MEMBER (A):

R.G.Vaidyanatha
(R.G. VAIDYANATHA)
VICE-CHAIRMAN.

OS*