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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

O.A.No.118/91

Dt. of decision:4-10-93.

Between:

R. Nageswara Rao

.. Applicant

And

1. Inspector of Works,
Railway Electrification,
S.C. Railway, Vijayawada.
2. Divisional Engineer,
Railway Electrification,
S.C. Railway, Vijayawada.
3. Divisional Engineer,
Railway Electrification,
S.C. Railway, Kazipet.
4. _____
Railway Electrification,
S.C. Railway, Vijayawada.
5. General Manager,
Railway Electrification,
Allahabad.

.. Respondents

Appearance

Counsel for applicant : Mr. G.V. Subba Rao

Counsel for respondents : Mr. V. Bhimanna,
SC for Railways

Coram:

The Hon'ble Mr. T. Chandrasekhar Reddy, Member (Judl.)

J u d g e m e n t

As per Hon'ble Mr. A.B.Gorthi, Member (Admn.) I

The applicant was appointed as a Khalasi on 6.12.80 at Anantapur under the IOW, Construction Branch, Guntakal Division. He was transferred to IOW, Renugunta from 10.12.82 and thereafter he was placed under the control of IOW, Vijayawada w.e.f. 20-6-85 where he continued to work upto 11-5-86. He applied for leave on 10-5-86 as

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home he himself fell sick and could not rejoin the duty. Later he approached the authorities concerned on 28-4-87. On 10-5-87 when he personally approached the IOW, Vijaya-wada and reported for duty with a private Medical Certificate, he was informed that his services were terminated and that he could not therefore be allowed to resume his duty. Aggrieved by the same, he made several representations to the authorities concerned without any ~~success~~. Finally, on his representation dt. 20-1-89 the authorities concerned relented and ~~finally~~ appointed him again as a casual labour w.e.f. 14-3-90. The respondent, however, treated the second engagement as a fresh engagement and denied him the benefit of the past service. Aggrieved by the same he again represented to the competent authority but received no reply. Hence this application.

2. We heard learned counsel for both the parties. So far as the facts of this case are concerned they are not in dispute. The learned counsel for the applicant firstly contended that the order terminating the services of the applicant without following Railway Servants (D&A) Rules is illegal because at the relevant time the applicant already acquired temporary status. There was neither any enquiry nor even a notice issued to him before his services were terminated, that too orally.

3. Sri V. Bhimanna, learned counsel for the respondents admits that the applicant at the relevant time had acquired temporary status, but contends that the respondents acted in accordance with the instructions contained in Serial Circular No.12/84 dt.6-2-84 under which a casual labour who remained unauthorisedly absent for long period was to be struck off from the rolls of the Live Register. He further contended that the applicant had approached the

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Tribunal rather late because the impugned order of termination of service was made known to him on 10-5-87.

4. On the question of limitation, Mr. G.V. Subba Rao, learned counsel for the applicant has stated that the applicant, a semi-illiterate, kept on pressing the authorities concerned for redressal of his grievance and the fact that the respondents did consider his request and finally reengage him in 1990 would show that the cause of action in this case got postponed to 14-3-90 when the applicant was reengaged as a fresh casual labourer. We are satisfied that in this case, instead of rejecting it on the threshold, ^{L on LC} of technical plea of limitation, we should consider it on merits mainly because it cannot be stated that the applicant slept over his rights. On the merits, Mr. G.V. Subba Rao has drawn our attention to Serial Circular No.78/81 dt.4-7-81 under which a casual labour given temporary status would be eligible for all the entitlements and privileges admissible to temporary railway servants as laid down in Chapter XXIII of the Indian Railway Establishment Manual, including right to be governed by the Discipline and Appeal Rules. This aspect ^{has been} reiterated in a number of judgements of this Tribunal and there is no need to make reference to all ~~..... sufficient~~ temporary status and the respondents terminated his services without following the Discipline and Appeal Rules. The termination of the services of the applicant is therefore illegal and has to be set aside.

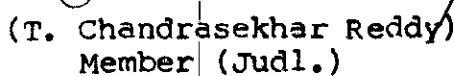
he proceeded on leave on 11-5-86 till date of reengagement on 14-3-90. Mr. G.V. Subba Rao, learned counsel for applicant fairly stated that under these circumstances he would ^{press} not stress for wages for the said period. There could

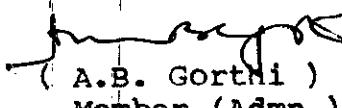
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however be no doubt that there would be no justification for the respondents to deny the benefit of the past service to the applicant. His engagement w.e.f. 14-3-90 cannot be treated as a fresh engagement, but as an order continuing him ^{as} a casual labour. Under these circumstances, the applicant ~~would~~ be allowed to count the entire period of ^{past} service from the date 6-12-80 to ^{for all purposes} 11-5-86. As regards the period from 11-5-86 to 14-3-90 we direct that it shall count for the purpose of applicant's seniority for consideration for regular absorption. The application is allowed to the above extent, but without any order as to costs. The respondents should comply with the ~~judgment~~ [&] statement within a period of three months from the date of communication of this order.


(T. Chandrasekhar Reddy)
Member (Judl.)


(A.B. Gorthi)
Member (Admn.)

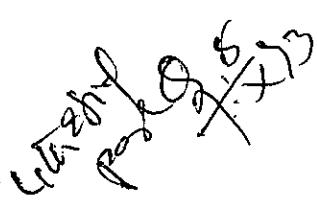
Dated 4th October, 1993
Dictated in Open Court


Deputy Registrar (J)

To

1. The Inspector of Works,
Railway Electrification, S.C.Rly, vijayawada
2. The Divisional Engineer, Railway Electrification,
S.C.Rly, vijayawada.
3. The Divisional Engineer, Railway Electrification,
S.C.Rly, Kazipet.
4. The Chief Project Manager, Railway Electrification
kmv S.C.Rly, vijayawada.
5. The General Manager, Railway Electrification, Allahabad.
6. One copy to Mr.G.v.Subba Rao, Advocate, CAT.Hyd.
7. One copy to Mr.v.Bhimanna, SC for Rlys, CAT.Hyd.
8. One copy to Library, CAT.Hyd.
9. One spare copy.

pvm


Chandrasekhar Reddy

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COMPARED BY

CHECKED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE V.NEELADRI RAO
VICE CHAIRMAN

AND

THE HON'BLE MR.A.B.GORTHI : MEMBER(A)
AND

THE HON'BLE MR.T.CHANDRASEKHAR REDDY
MEMBER(JUDL.)

AND

THE HON'BLE MR.P.T.TIRUVENGADAM: M(A)

Dated: 6-10-1993

ORDER/JUDGMENT:

M.A./R.A./C.A. No.

in

O.A. No. 118/91

T.A. No. (W.P.)

Admitted and Interim directions
issued

Allowed.

Disposed of with directions

Dismissed.

Dismissed as withdrawn

Dismissed for default.

Rejected/Ordered.

No order as to costs.

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