

ANNEXURE - I

List of papers in Original Application No.

6 A. 172 / 94

Sl. No. of Papers	Date of Papers or Date of Filing	Description of Papers.
6		

Part - I

19-6-96, Original Judgement

27-1-94, O.A & Material Papers

Counter

Reply Counter

PART - I,

PART -- II,

PART --- III

Destroyed.

*A*  
5/1/2000

**CENTRAL ADMINISTRATIVE TRIBUNAL**  
**HYDERABAD BENCH**

**RECORD SECTION INDEX SHEET**

O.A. No. 172 /1994

a) Applicant (S) The Chief Signal & Communication Engineer (S&C)  
versus  
MSAyan and 2 others.

b) Respondent (S) Sri Rukha Srikanth over a case concerning  
By Electrification set back & am.

Sl.No.	Description of Documents.	Page. No.
	<u>Part. I</u>	
	Order Sheet	1-3
	Original Application	27.1.94
	Material Papers	4-14.
	Order dated	24.2.94.
	Counter Affidavit.	25.6.94
	Reply Affidavit	64-65
	Order dated 19.7.96 w/ MA 421 (96) W/ C OA 172/14.	66-72
		73-80
	<u>Part. II</u>	
	Duplicate Order Sheet.	
	" Application	
	" Material Papers	
	" Order dt.	
	" Counter Affidavit	
	" Reply Affidavit	
	" Order dt.	
	<u>Part-III</u>	
	Vakalat 27.1.94	
	Notice Papers 4.3.94.	
	Memo of Appearance 27.1.94 6.4.94	

02/8/96

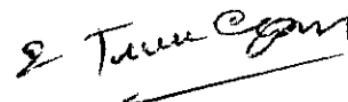
ANNEXURE-I

FORM OF INDEX

List of papers in ~~MA/CD/~~ RP No. 421/1994 in O.A. No 172/84.

Serial no of papers on record part I part II part III	Date of paper or Date of filing	Description of papers	Remarks
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9/6/84. 

  
E. T. Venkateswara

Returned M.A.S.R 14/23/94

- When vacate stay filed on behalf of the respondents, the respondents should be shown as applicants.

in 10 days time

Or  
16/6/94

Complaints with Please

11 Ethirajulu  
AD for Appls

Returned

- Full cause title should be furnished in the covering petition
- Presiding Officer should be shown as in cause title

C.A.R.  
12/6/94

Reg:- vacate stay petition

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH: AT HYDERABAD

dated - of 1994

in  
O.A. No. 172 of 1994

Between:

Engineer, Railway Electrification, Vijayawada (represented by Dy. Chief S&T Engineer (RE), Vijayawada and 2 Others .. Applicants

A N D

Sri Rekha Srihari  
Casual Khalasi through  
Divisional Engineer,  
Railway Electrification,  
Secunderabad  
and 1 Other



MISC. APPLICATION TO VACATE STAY  
UNDER RULE 8 OF THE CENTRAL ADMINISTRATIVE TRIBUNAL PROCEDURE RULES  
1987:

Filed By  
M/s G.V.Subba Rao &  
N.Ethirajulu  
Advocates  
H.No. 1-1-230/33  
Jyothi Bhavan  
Chikkadapalli  
Hyderabad - 20

5/6/94

may be filed  
in  
20/6/94

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

M. A. No. 421 of 1994

in  
O.A. No. 172 of 1994

Between:

Rekha Srihari

..Applicant/Respondent

1. A N D  
Presiding Officer, Labour Court, Guntur  
2. The Chief Signal & Telecommunication  
Engineer, Railway Electrification,  
SCT Engineer (RE), Vijayawada  
and 2 Others

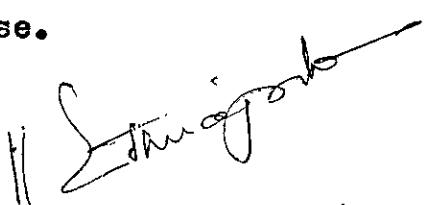
3. Dy CSE (Sig) Re. Electrification, Guntur  
Engineer of DRD in a rep by G.M/R.E./AD/Ala  
4. MEMORANDUM OF MISC. APPLICATION UNDER RULE 8 (a) OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL PROCEDURE RULES 1987 TO

VACATE STAY:

U/R 8(2) of CAT (P) Rules 1987

Counter

For the reasons mentioned in the accompanying  
affidavit the respondents pray that this Hon'ble Tribunal  
may be pleased to vacate the interim orders passed on  
24.2.1994 in O.A. 172/94 suspending the operation of the  
Labour Court's judgment as otherwise he will be put to  
irreparable damage in that he had been deprived of his  
legitimate right to wages for the period he was not  
permitted to perform duty arbitrarily by the authorities  
and pass in any other order or orders as deemed fit proper  
and just in the circumstances of the case.

  
Counsel for the Applicant.

ORIGINAL

RAILWAY

SENCE CAS

IN THE CENTRAL ADMINISTRATIVE  
TRIBUNAL HYDERABAD BENCH AT  
HYDERABAD. A.P.

No order M.A. is  
disposed of.

By *hsl*  
M.A.R.P. *mae.t*  
M(A) *V.C.*

M.A. NO. 7. 91 1994

O.A. NO. 172 1994

Vacate stay petition

~~PETITION FOR SEEKING PERMISSION  
TO ADD ADDITIONAL APPLICANTS IN  
A SINGLE ORIGINAL APPLICATION~~

Mr. G. V. Subba Rao

COUNSEL FOR THE APPLICANTS *Respects  
counsel*  
AND

Mr. N. R. Devanur

Sr. ADDL. STANDING COUNSEL  
FOR C.G. BRTS. *or Ambedkar Chars*

(i)

OA 172/94

Date	Office Note	Orders
1-6-94		<p>Mr. N.R. Devaraj, Standing Counsel for the applicants is present. Mr. G.V. Subba Rao, counsel for the respondents wants two weeks time to file counter. Two weeks further time is granted to the respondents to file their counter.</p> <p>List this OA for final hearing on 23/6/94</p> <p>HRR M(A)</p>
23/6/94	<p>Counter Affidavit filed by Mr. G.V. Subba Rao, Adv. on 20/6/94.</p> <p>material papers in CMF 29/88 on the file of the Labour Court. Counter ordered.</p>	<p>HVNJR M(J)</p>
VI. 71	<p>an order on OA 172/94</p> <p>OA is disposed of</p> <p>OA is dismissed as for want of jurisdiction</p> <p>held</p> <p>8/6/94 H.V.R.P M(A)</p>	<p>M.C. 5 VI.C.</p>

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

•.A. No./T.A. No. .... 172 ..... 1994.

Mr. Chinti Singal and Applicants (S)  
Telecom engineer, Nitogawara and M  
VERSUS

Mr. Sri Rappa Soni Respondent (S)  
Astt. Singal and Telecom engineer  
Secty and M

Date	Office Note	Orders
15-2-94		post it on 18-2-94. HAN MC(A) B.O DR (T) DR (CJ)
18-2-94		post on 21-2-94. HAG M(A) B.O DR (T) DR (CJ)
21/2/94		post on 24-2-94. HAN M(A) B.O DR (T) DR (CJ)
24-2-94		post on 24-2-94. HAN M(A) B.O DR (T) DR (CJ)

OA 172/94.

DATE	OFFICE NOTE	ORDERS
24-2-94 3-3-94	Notice sent to RR& 1912 by RPAD. R1-Sd R2-Sd	24-2-94 Notice before admission. The impugned order is suspended until further orders. Post on 6-4-1994, for reply in the meanwhile HRRN M(A) HVNRJ VC
6-4-94	<u>Admit.</u> Post it on 27.4.94 for final hearing before admission, for replies in the meanwhile. Print the name of Mr. G. Vibba Rao HRR M(A)	X HVNRJ VC
23-5-94	Post on 16-94 for reply in the meanwhile HRRN M(A)	X HVNRJ VC

NBA  
23/5/94

**G.V. SUBBA RAO**

ADVOCATE

M.A., LL.M.

1-1-230/33, Jyothi Bhavan,  
Chikkadpally,  
Hyderabad - 500 020.

To

The Registrar,  
Central Administrative Tribunal,  
HYDERABAD.

Sir,

Sub: Request to post O.A. 172/94 between  
CSTE Vs. Rekha, Srihari & another.

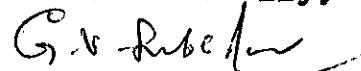
2. O.A. 199/94, between CSTE Vs. Y. Benarji,  
for orders on 16.7.1994.

The above two O.A.s were filed in this Hon'ble Tribunal by the Railway against the judgement of the Labour Court in QMP.29/1988 and QMP.32/1988 filed by the respondents in the Labour Court, Guntur for recovery of dues to them under section 33 C (2) of I.D. Act.

This Hon'ble Tribunal following the judgement of the Hon'ble Supreme Court in Sh. Suraj Ram Vs. Union of India & Kishan Prasad Gupta Vs. Controller Printing and Stationery, 1996(1) SC 69 dismissed O.A.No. 1475/94 and other O.A.s filed in this Hon'ble Tribunal by the Railways against the judgement of the Labour Court by declaring that the Central Administrative Tribunal has no jurisdiction to entertain an application under section 19 of the Central Administrative Tribunal's Act of 1985 against an award/order of the Labour Court.

So (1)  
15th  
The above two O.A.s are squarely covered by the said judgement and it is requested that the above O.A.s may kindly be listed for orders before the Hon'ble Tribunal.

Yours faithfully,

  
(G.V. SUBBA RAO)

Recd  
15/7/94  
for N.R. Dey  
Fix date  
and file  
15/7/94

IN THE SUPREME COURT OF INDIA  
CIVIL APPELLATE JURISDICTION

CIVIL APPEAL NO.3370 OF 1996

arising out of

SPECIAL LEAVE PETITION (C) NO. 28462 OF 1995

Sh. Suraj Ram  
v/s.

...Appellant(s)

Union of India & anr.

...Respondent(s)

O R D E R

Delay Condoned.

Special Leave granted.

The Central Government directed the respondents to pay a sum of Rs. 7,826/- as part of unpaid wages for the period from September 4, 1975 to February, 1980. The respondents challenged the award of the Labour Court before the Central Administrative Tribunal. The Tribunal by the impugned judgement dated December 15, 1993 set aside the award and rejected the claim of the appellant. This court in Kishan Prasad Gupta vs. Controller, Printing and Stationery, 1996 (1) SCC 69 has held that the Central Administrative Tribunal has no jurisdiction to entertain an application under Section 19 of the Central Administrative Act, 1985 against an award/order of the Labour Court. Even otherwise the Tribunal was not justified in setting aside the award on merits.

We allow the appeal, set aside the impugned judgement of the Central Administrative Tribunal and restore that of the Labour Court. No costs.

Sd/-

(KULDIP SINGH)

SD/-

(FAIZAN UDDIN)

New Delhi,

Feb. 12, 1996.

CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH HYDERABAD.

ORIGINAL APPLICATION No. 17 OF 1994

Shri Chief St. Jud & Telecom Engineer, M/s. Electro Galvan <sup>V. Jayawardha & 2 Ors.</sup> Applicant(s)

Versus

R. S. Sibari & another

Respondent(s)

This Application has been submitted to the Tribunal

by Mr. N. R. Duvvuri Advocate under section 19 of the Administrative Tribunals Act. 1985 and same has been scrutinised with reference to the points mentioned in check list in the light of the provisions contained in the Administrative Tribunal (Procedure) Rules, 1987.

The application is in order and may be listed for admission on - 29

Scrutiny Officer.

A  
1/2  
Deputy Registrar(J)

11. Have legible copies of the annexures duly attested been filed?
12. Has the Index of documents been filed and pagination done properly?
13. Has the applicant exhausted all available remedies?
14. Has the declaration as required by item 7 of Form I been made?
15. Have required number of envelopes (file size) bearing full address of the respondent's been filed?
16. (a) Whether the reliefs sought for, arise out of single cause of action?  
(b) Whether any interim relief is prayed for?
17. In case an M.A. for condonation of delay is filed, is it supported by an affidavit of the applicant?
18. Whether this case can be heard by single Bench?
19. Any other point?
20. Result of the Scrutiny with initial of the Scrutiny Clerk.

Section Officer

Deputy Registrar

REGISTRAR

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

Diary No. ....

Report on the scrutiny of Application

Presented by ..... Date of Presentation .....

Applicant(s) ..... Chief Secy to the Govt of India

Respondent(s) ..... Shri A. G. Rao

Nature of grievance ..... Alleging wrongs

No. of applicants ..... 3

No. of respondents ..... 2

CLASSIFICATION

Subject ..... (No.) ) Department ..... (No.) )

1. Is the application in the proper form?  
(Three complete sets in paper books form in two compilations):
2. Whether name, description and address of all the parties been furnished in the cause title?
3. (a) Has the application been duly signed and verified?  
(b) Have the copies been duly signed?  
(c) Have sufficient number of copies of the application been filed?
4. Whether all the necessary parties are impleaded?
5. Whether English translation of documents in a language other than English or Hindi been filed?
6. Is the application in time?  
(See Section 21)
7. Has the Vakalathnama/Memo of appearance/authorisation been filed?
8. Is the application maintainable?  
(U/s 2, 14, 18 or U.R. 8 etc.)
9. Is the application accompanied by IPO/DD for Rs.50/-?
10. Has the impugned orders original/duly attested legible copy been filed?

Contd.....

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

INDEX SHEET

O.A. No.

172

of 1993

CAUSE TITLE The Civil Signal and Telecom  
Engineer Nitajawade and or  
VERSUS

Mr. Rattu Singh, Post Signal and  
Telecom Engineer Signal and or

Sl. No.	Description of documents.	page No.
1.	Original Application	1/10
2.	MATERIAL PAPERS.	1/58
3.	Vakalat	1
4.	Objection sheet	1
5.	Spare Copies	2
6.	Covers.	2

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD  
O.A.No. 1/5 of 1994

Between

The Chief Signal & Telecom Engineer  
(Signal), Railway Electrification,  
Vijayawada and 2 others .. Applicants

and

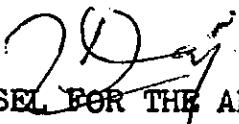
1. R. Srihari

Labour Citing Officer,

.. Respondents.

CHRONOLOGICAL EVENTS

Sl. No.	Date	Particulars
01.	21.6.1982	Respondent No.1 was engaged as a Project casual labour.
02.	1.6.1984 11.9.1986	Railway Board for grant of temporary status orders
03.	29.12.1984	Respondent No.1 terminated from the services.
04.	12.7.1985	Memorandum issued to the Respondent 1
05.	22.1.1986	Memorandum issued to the respondent 1
06.	3.2.1986	3rd Applicant considered the representation.
07.	30.5.1986	Respondent No.1 terminated from the services.
08.	18.1.1988	High Court disposed of the W.P. filed by Respondent No.1
09.	27.5.1988	Pursuant to the said orders of the Hon'ble High Court, Respondent No.1 taken back to the duty.

  
COUNSEL FOR THE APPLICANTS.

My to set aside the orders of labour court, Guntur dt 6-12-92 passed in case 29/88  
regarding award of wages.

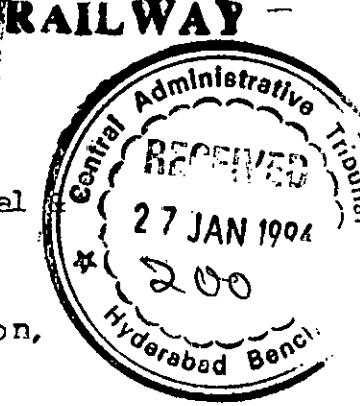
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH

AT HYDERABAD

*Bruch case*  
BENCH CASE  
Between

O.A. NO. ~~29/88~~ of 1993

14  
Hyderabad



1. The Chief Signal & Telecommunication Engineer (Signal), Railway Electrification, Vijayawada (represented by Deputy Chief Signal Telecommunication Engineer, Vijayawada).
2. Union of India represented by General Manager, Central Organisation for Railway Electrification, Allahabad-UP
3. Dy. Chief Signal & Tele Communication Engineer (Signals), Railway Electrification, Secunderabad Now at Vijayawada.

and

Applicants

1. Sri R. Srihari, S/l. Venkateswarlu, Casual Khalasi through Asst. Signal & Telecommunication Engineer, Railway Electrification, Secunderabad-500 371.
2. Presiding Officer, Labour Court, Guntur .. Respondents

DETAILS OF INDEX

Sl. No.	Date	Description	Annexure No.	Page No.
01.	06.12.92	Judgement of Labour Court, Guntur in CMP No. 29/88	A-1	11 to 17
02.	18.04.85	Supreme Court Judgement	A-2	18 to 21
03.	01.06.84	Railway Board's letter	A-3	22 to 23
04.	11.09.86	Railway Board's letter	A-4	24 to 26
05.	17.07.88 19.10.91	CMP 29/88 Petition Amended Petition	A-5	27 to 34
06.	08.89	CMP 29/88 - Counter	A-6	35 to 38
07.	20.05.92	Judgement of CAT/ALD in OA No. 523/89	A-7	39 to 41
08.	22.01.91	Judgement of CAT/ALD in OA No. 520/88	A-8	42 to 45
09.	01.10.92	Judgement of CAT/NDLS (PB) OA No. 164/90	A-9	46 to 50
10.	14.09.87	Judgement of CAT/JEP OA 189/86 & several OAs	A-10	51 to 55
11.	04.10.93	Judgement of CAT/HYB in OA No. 118/91	A-11	56 to 59

*J. D. Day*  
COUNSEL FOR THE APPLICANTS

(5)

O.A. UNDER SECTION 19 OF ADMINISTRATIVE TRIBUNAL ACT  
IN THE CENTRAL ADMINISTRATIVE TRIBUNAL:HYDERABAD BENCH  
AT HYDERABAD

O.A. No. ~~17~~ of 1993

Between

1. The Chief Signal & Telecommunication Engineer (Signal), Railway Electrification, Vijayawada (rep. by Dy. Chief Signal & Telecommunication Engineer, Vijayawada)
2. Union of India represented by General Manager, Central Organisation for Railway Electrification, Allahabad, U.P.
3. Dy. Chief Signal & Telecommunication Engineer (Signals), Railway Electrification, Secunderabad, now at Vijayawada .. APPLICANTS

and

1. Sri Rekha Srihari, S/o. Venkateswarlu, Casual Khalasi through Asst. Signal & Telecommunication Engineer, Railway Electrification, Secunderabad - 500037
2. Presiding Officer, Labour Court, Guntur, A.P. .. RESPONDENTS

I. PARTICULARS OF THE APPLICANTS

The addresses of the applicants for the purpose of service of notices etc. is as stated in the cause title and that of their counsel is Sri N.R. Devaraj, Standing Counsel for Railways, Central Administrative Tribunal, Hyderabad.

II. PARTICULARS OF RESPONDENTS

The address of the respondents for service of notices and process are as shown in the cause title.

contd...2

V. Balaji.

ATTESTOR

DEPONENT  
Dy. Chief Signal & TeleComm  
Railway Electrification  
Ministry  
INDIAN RAILWAYS,  
Vijayawada  
VIJAYAWADA.

**III. PARTICULARS OF THE ORDER AGAINST WHICH THE APPLICATION IS MADE**

Orders of the 2nd respondent passed in CMP No.29/1988 dt.6.12.1992. The 2nd respondent directed payment of monthly wages, HRA, leave credit, increments with all attendant benefits from 31.5.1986 to 26.5.1988 by the applicants herein within two months from the date of the order failing which the applicants are liable to pay the interest @ 12% per annum on the amount due till the date of payment. The impugned order is annexured as Annexure A-I.

**IV. JURISDICTION OF THE TRIBUNAL U/S. 14(1)(ii)**

The applicants declare that the subject matter of the order against which they want redressal is within the jurisdiction of the Tribunal. U/s. 14(1)(ii) of A.T. Act 1987

**V. LIMITATION**

The applicants declare that this application is within the limitation prescribed under section 21 of the Administrative Tribunal Act, 1985. The impugned order was passed on 6.12.1992. The application for obtaining certified copy of the said order was filed on 30.12.1992 and the same was made ready and delivered on 3.4.1993. Hence, O.A. is within the limitation.

**VI. FACTS OF THE CASE**

At the outset it is submitted that the respondent No.1 was engaged on 21.6.1982 as PROJECT CASUAL LABOUR under applicant No.3. The project casual labours were not eligible for temporary status and thereby not entitled to any benefits as admissible to temporary status holders as per code or manual rules except the daily rates and ~~no~~ monthly rate before the Hon'ble Supreme Court delivered judgement in

contd...3

శాసన పరిషత్త రెప్రెజిటర్  
Dy. Chief Secy. & A.O.  
రైల్వే ఇంజినీరు  
Railway Electrification  
ఎస్.టి.టి.స్.స్  
INDIAN RAILWAYS.  
టి.ఎఫ్.ఎస్  
VIJAYAWADA.

V. Balaji,

DEPONENT

P

Inderpal Yadev case on 18.4.1985. In the said judgement the Hon'ble Court accepted the revised schemes submitted by the Railway Board and ordered that project casual labour will be entitled to grant of temporary status etc. after continuous working of 360 days. The copy of the said judgement and the scheme are annexured as Annexure A-2 to this application.

The revised orders for grant of temporary status to project casual labours was issued by Railway Board vide their letter No. E(NG)III/84/CL/41, dt. 1.6.1984 and 11.9.1986. The copies of the same are annexured and marked as Annexure A-3 and A-4 respectively to this application.

In view of the above legal and contractual position with regard to engagement of project casual labour prior to issue of letters dt. 1.6.1984 and 11.9.1986, Annexures A-3 and A-4, the action taken by the applicants in accordance with the rules on the subject then existing was bonafide and legal and could not be undone to the disadvantage and penalisation to the applicants by virtue of operation of provisions contained in those subsequent rules.

Even if the earlier actions taken by the applicants in good faith in accordance with the rules then existing against the respondent No. 1 was found technically not in order by the Hon'ble Court on the basis of equity and justice, the applicants are not liable for payment of wages for the period the respondent No. 1 did not actually work which might have been in consequence to the legal and bona-fide action taken by the applicants based on the rules then existing which had also force of law.

contd...4

V. Balaji

DEPONENT - वी. बालाजी,  
Dy. Comm. in Charge of Comm. Engg.  
RTE & Electrification  
RTE & Electrification  
INDIAN RAILWAYS,  
VIZAG,  
VIJAYAWADA.

(B)

The judgement of Hon'ble Supreme Court dt.18.4.1985 Annexure A-2 and orders issued by Railway Board dt.1.6.1984 and 11.9.1986 Annexures A-3 and A-4 cannot be made to operate retrospectively to the disadvantage of applicants whereby public money will be required to be spent for payment of wages for the period not worked by the respondent No.1 under applicants.

For the above considerations Hon'ble CATs, Allahabad, New Delhi (PB), Jabalpur and Hyderabad ~~in India~~ against Railways have been kind enough not to allow back wages for the periods not worked for the same reasons in several of their judgements, copies of <sup>which</sup> are annexured and marked as Annexure A-7 to A-11 to this application.

The respondent was engaged as a casual labour in the Railway Electrification Project under the administrative control of the Dy.Chief Signal & Telecommunication Engineer (Signals), Railway Electrification, Secunderabad on 21.6.1982. Only such of those persons who had previous service in Railways as casual labour was recruited as casual labour in Railway Electrification project as required under rules. In order to establish that 1st respondent herein had worked earlier in the Railways, he was required to produce service cards showing his earlier employment. Accordingly, the respondent No.1 herein produced casual labour service card alleged to have issued by the Permanent Way Inspector, South Central Railway, Rajahmundry showing that he worked under him in different spells between 10.9.1981 to 9.12.1981 10.1.1982 to 9.4.1982. On the basis of complaints received by the Vigilance Branch of the Railways, the genuineness of the service card produced by the respondent No.1 and others

contd..4.

3. रेलवे इंजिनियर और संचार इंजीनियर  
Dy. Chief Signal & Telecom. Engineer V. Balaji,  
Railway Electrification  
RTE, T.S.R.R.  
INDIAN RAILWAYS,  
Vijayawada  
VIJAYAWADA.

DEPONENT

verified. It was found that he had not worked under the control of Permanent Way Inspector, Rajahmundry during that period and the question of the respondent No.1 working in the unit does not arise. Thus, the respondent No.1 herein obtained forged ~~casual labour service card~~ employment in Railways by practising fraud in that a forged casual labour service card was submitted by him. The respondent No.1 herein was engaged as casual Khalasi on daily rate of wages w.e.f. 21.6.1982. On completion of 6 months continuous service he was given the benefit rate of 1/30th of the scale of pay admissible to the corresponding category of regular employees as per the instructions of the Railway Board. As per the rules prevailing then, the respondent No.1 being casual labour engaged in a project that is Railway Electrification project, he was not entitled to get temporary status and at the same time the Railway Service (Discipline & Appeal) Rules were not applicable to such project casual labour. As stated above, as it is found that the service card produced by the respondent No.1 was found to be fake, he was terminated from service on 29.12.1984 after giving one month salary in lieu of notice of termination. The respondent No.1 questions the said termination order before the Hon'ble High Court of A.P. through W.P.475/1985. While quashing the termination order, the Hon'ble High Court made it clear that orders of the court does not preclude the authority from taking such action against the respondent No.1 herein as may be warranted in the facts of the case. Persuant to the said orders, a Memorandum dt.12.7.1985 was issued to the respondent No.1 herein to submit his explanation for his misconduct and fraud committed by him. He submitted his explanation.

The District Signal & Telecommunication Engineer, Kazipet

contd...6

V. Balaji  
 उप नियन्त्रित दूर संचार इंजीनियर  
 Dy. Chief Engg. & Telecom. Engr.  
 रेल नियन्त्रित  
 Railway Electrification  
 नियन्त्रित  
 DEPONENT  
 IN CHARGE  
 RAILWAYS,  
 KALYAN,  
 VIJAYAWADA.

having not satisfied with the said explanation forwarded the same to the 3rd applicant herein for further action. Later on, the respondent No.1 herein was given a Memorandum, dated 22.1.1986 giving him an opportunity to make a representation on the proposed action of termination on the ground of serious misconduct and fraud namely producing fake casual labour service card with a view to gain undue advantage to secure employment. The 3rd applicant herein considered the representation dt.3.2.1986 submitted by the respondent No.1 herein and an order was passed on 30.5.1986 terminating his services w.e.f. 31.5.1986 (AN). The respondent No.1 herein once again challenged the said order before the Hon'ble High Court Andhra Pradesh in W.P.No.7789/1986. The Hon'ble High Court by its order dt.18.1.1988 disposed the said writ petition along with two other petitions filed by similarly situated applicants as follows :

" The points raised by the petitioners are squarely covered by the ratio of this court reported in Divisional Superintendent, South Central Railway Vs. Labour Court (1) 1982(2) A.L.T.119, decided by B.P.Jeevan Reddy, J. wherein this court has held that in a case where a casual labourer claims to have acquired temporary status though does not fall within the four corners of Section 14(1)(a) of the Act, but he falls under Section 28 of the Act. Under those circumstances, he is entitled to the relief sought for in the Labour Court viz. declaration that they acquired temporary status on the expiry of six months continuous employment. The learned standing counsel strenuously contends that the ratio laid down is not correct and that the statutory rules in the establishment code do not apply. He seeks to place reliance on a judgement of my learned brother Y.V. Anjaneyulu, J.

contd....7

उप मुख्य  
Dy. Chief Engineer & Tele. Comm. Engineer  
रेकॉर्डर  
R. P. 1988  
Classification  
IN 1000  
DEPONENT  
Vijayawada  
Vijayawada

But I am in complete agreement with the ratio laid down by B.P.Jeevan Reddy, J. Accordingly the writ petition~~s~~ are allowed. No costs. "

Pursuant to the said orders of Hon'ble High Court of Andhra Pradesh in W.P.No.7789/1986, the respondent No.1 was taken back to duty on 27.5.1988 by the Chief Project Manager, Railway Electrification, Vijayawada without prejudice to the D&A rules action that may be taken against him at a later date. Accordingly DAR enquiry is initiated against the respondent No.1 herein. The respondent No.1 herein filed CMP No.29/1988 before the 2nd respondent herein under section 33(c)(2) of Industrial Disputes Act seeking payment of monthly wages, HRA, CCA, leave credit increments and all attendant benefits due to him for the period from 31.5.1986 to 26.5.1988 and 1.1.1984 to 26.5.1988 as he was declared as having attained temporary status in the Railways. A copy of the said petition is filed as Annexure A-5. The applicants herein filed a counter to the said petition mainly on the ground that without production of genuine service card, the respondent No.1 herein cannot seek any kind of relief and he has no right to file. The said CMP under Section 33(c)(2) of the I.D.Act is not maintainable and the 2nd respondent has no jurisdiction to entertain the said petition under Section 33(c)(2) of the I.D.Act. It is also contended by the applicants herein that the respondent No.1 has never performed any duty during the period from 31.5.1986 to 27.5.1988 and as such there is no ~~an~~ established right vested on him so as to put forth his claim before the 2nd respondent herein. A copy of the counter is filed herewith as Annexure A-6.

contd....7

*V. Balaram*

ఉత్తర రిపబ్లిక్ నుండి సచార ఇంజినీర్  
Dy. Commr. (Electr. & Mech.) Comm. Encl. 1  
రెజ్యుల్యూషన్  
Railway Electrification  
H.T. DEPONENT  
INDIAN RAILWAYS,  
Lok. 44, ST  
VIJAYAWADA.

The 2nd respondent herein passed the impugned order allowing the said CMP in part and held that the respondent No.1 herein is entitled to the monthly wages as claimed by him from 31.5.1986 to 26.5.1988 and accordingly directed the applicants herein to pay the said amount within the two months from the date of the impugned order failing which the applicants herein are liable to pay interest at the rate of 12% per annum on the amount due till the date of payment. Aggrieved by the said order the applicants herein are filing this original application for quashing the same.

#### G R O U N D S

The orders of the 2nd respondent herein is contrary to law, facts of the case and without jurisdiction.

The 2nd respondent herein ought not to have entertained the CMP under 33(c)(2) of the Industrial Disputes ACT since in the said provisions, Labour Court can compute only the payment of money accrued under an established right.

The 2nd respondent herein ought not to have passed the impugned orders when a specific plea has been taken in the counter by the applicant herein that the respondent No.1 herein has never performed any duties within the period from 31.5.1986 to 26.5.1988 i.e. on the principles of "No work-No pay". The 2nd respondent herein mainly relied on the judgement of the Hon'ble High Court in Writ Petition No.7789/1986, dt.18.1.1988 which filed as Exhibit P.1 before him. A perusal of the said order clearly shows that the Hon'ble High Court has not ordered any payment of back wages as there was no claim before the Hon'ble High Court by the respondent No.1 herein.

The 2nd respondent herein ought to have felt that there was no prayer before the Hon'ble High Court for the

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उप.व्य. बालाजुल व दा अंगार इज  
Dy. Chieff Engineer & Engg. Dept.  
रेल विभाग, दिल्ली  
Railway Electrification  
भारतीय रेल  
INDIAN RAILWAYS  
विजयवाडा  
VIJAYAWADA.

grant of back wages and no relief was given by the Hon'ble High Court of A.P., he cannot grant the said relief to the respondent No.1 herein on the principles of constructive res-judicata.

For the aforesaid grounds and such other grounds that will be urged at the time of hearing of this OA, the impugned orders are liable to be set aside.

#### VIII. RELIEF SOUGHT

It is therefore, prayed that this Hon'ble Tribunal may be pleased to call for the records pertaining to the order from the respondent herein and set aside the orders dated 6.12.1992 passed by the 2nd respondent herein in CMP No.29/88.

#### IX. INTERIM RELIEF PRAYED

Since the respondent No.1 herein taking steps to get the impugned order implemented, the balance of convenience is in favour of reliefs and pending notice to the respondent No.1 herein, it is prayed that this Hon'ble Tribunal may be pleased to suspend the operation of the orders dt.6.12.1992 passed by the 2nd respondent herein in CMP No.29/1988.

#### X. DETAILS OF REMEDY EXHAUSTED

The applicants submit that they have no other efficacious remedy except to approach this Hon'ble Tribunal.

#### XI. MATTER NOT PENDING IN ANY OTHER COURT, ETC.

The applicants herein declare that the matter regarding which the application is made is not pending before any court of law or in any other forum or any other bench of this Hon'ble Tribunal.

contd.....10

उपर्युक्त दस्तावेज़ तथा उपरांत इच्छिता  
Dy. Chief Election & Poll. Comm. &  
रेत द्वारा DEPONENT  
Railway Electrification  
Hindi  
IN RAILWAYS.  
11/12/2012  
11/12/2012

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(14)

**XII. PARTICULARS OF BANK DRAFT/P.O. IN RESPECT OF THE APPLICATION**

1. Postal Order No. 900743

2. Date 25.1.94

3. Post Office at which payable.

(P.O./B.C./D.D./Removed)

**XIII. Details of INDEX is enclosed.**

**XIV. List of enclosures filed with Index.**

శ్రీ రామాస్వామి రాజు  
డిపార్ట్మెంట్ ఆఫ్ రెలెక్యులేషన్  
రైల్వే ఇంజినీరింగ్  
రైల్వే ఇంజినీరింగ్ ఇంస్టిట్యూట్  
విజయావాడ, ఆంధ్రప్రదీప  
విజయావాడ.

V. Balaram.

SIGNATURE

I, V. Balaram, S/o. Ramaswamy, aged about 43 years, Hindu, working as Dy. Chief Signal & Telecommunication Engineer Railway Electrification, Vijayawada do hereby state that I am acquainted with the facts of the case and filing this application on behalf of all the applicants herein as I am authorised to do so. I further state that the contents from Para-I to XIV are based on official records and are true to the best of my knowledge. Hence verified.

V. Balaram.

SIGNATURE

Vijayawada

Dt: 10.1.94.

శ్రీ రామాస్వామి రాజు  
డిపార్ట్మెంట్ ఆఫ్ రెలెక్యులేషన్  
రైల్వే ఇంజినీరింగ్  
రైల్వే ఇంజినీరింగ్ ఇంస్టిట్యూట్  
విజయావాడ, ఆంధ్రప్రదీప  
విజయావాడ.

that the petitioner has acquired temporary status on the expiry of 6 months continuous employment and the petitioner was taken to service with effect from 27-5-1988 by the 3rd respondent and the petitioner is entitled for payment of wages for the period of prevention from duty illegally, that is from 31-5-86 to 27-5-1988 and that the petitioner workman made several representations orally and finally demanded in writing on 20-6-88 and the respondents did not pay the said arrears and that the petitioner is also entitled to the arrears of wages from 27-5-1988 to 27-5-1988.

Supreme Court judgment and hence the petition.

The respondents filed the counter denying the allegations.

It is averred in the counter that the petitioner has obtained employment by using fake service card and therefore the petitioner has no right to file a petition U/s. 33 C (2) of I.D. Act and this court has no jurisdiction to entertain the petition under the said section and that the petitioner's services were terminated with effect from 31-5-86 as he secured appointment by producing a fake casual labour service card said to have been issued from P.W.9 S.C.Railway, Rajahmundry as if he worked in different appears between 10-9-81 to 9-12-81 and 18-2-82 to 9-4-82 and the termination was challenged by the petitioner by filing W.P. before the High Court quashed the impugned termination order and pursuant to the said order the petitioner was taken back to duty without prejudice to the D & AR action that may be levelled against the petitioner at a later date and now the D & AR enquiry has been instituted against him and that the Central Administrative Tribunal Hyderabad while disposing of similar case filed by one P.Sathaiah ordered that it is open to the respondents to hold an enquiry according to the prescribed procedure and take such action as they deem fit (O.A. No.579 of 1987) and in view of the direction and also as the petitioner never performed any duty during the period from 31-5-86 to 27-5-88 has no right to claim the arrears and hence to dismiss the petition with costs.

In support of their contentions the petitioner examined himself as P.W.1 and the respondent examined to official as R.W.1 and they both got marked Exs.P1 to P5 and Exs.R1 to R6 respectively

C.W. No.

A-1/ 11 16 23

Before the Presiding Officer, Labour Court, Guntur.

Present:- Sri C. Rambabu, B.A.L.L.B.,  
PRESIDING OFFICER.

Central Miscellaneous Petition No. 29/1988.

This the 6th day of December, 1992.

Between:

Sri Betha Srihari, 331 J.M. 1981, native of  
Castroki Khalasi Worker,  
Railway Electrification, Kaxipet, Secunderabad,  
South Central Railway.

Petitioner.

And

1. The Chief Signal & Tele Communications  
& Engineer ( Signals ) South Central Railway,  
Vijayawada.

2. Union of India, for General Manager,  
South Central Railway, Secunderabad.

3. The Deputy Chief Signal & Telecommunications  
Engineer ( Signals ) Railway Electrification,  
S.C.Railway, Secunderabad.

Respondents.

This petition coming on for hearing before me upon perusing

the material papers on record and upon hearing the arguments

of Sri S. Satyanarayana, Advocate for the petitioner and of Sri  
K. Rajarao, Advocate for the respondents the Court passed the  
following:-

O R D E R.

This is a petition filed U/s. 33 C (2) of I.D. Act by the  
petitioner workman seeking payment of monthly wages, H.R.A, C.C.A.

Leave Credit increments and all attendant benefits due to him

for the period from 31-5-86 to 26-5-88 and 1-1-84 to 25-5-88

as he was declared as having attained temporary status in the  
respondent Railways.

The brief facts averred in the petition are:-

The petitioner was employed by the Divisional Signal &  
Telecommunications Engineer ( Railway Electrification ) South Central  
Railway, Kaxipet on 21-6-1992 and he worked continuously from the  
date of his appointment till the date of his services were illegally  
terminated by the 3rd respondent on 31-5-86 vide letter No VERE/C.S./  
E/252/7 dated 30-5-1986 and the petitioner filed a Writ Petition  
No. 7789/86 before the High Court of A.P. Challenging the termination  
order and the High Court quashed the said orders on 18-1-88 declaring

C.W. Nil

The oral evidence is not of much importance in this case. It is only helpful to us to a limited extent only. Both P.W.1 and M.W.1 admit about the petitioner being employed under the 3rd respondent and his services being terminated without following the procedure and that the termination order was quashed by the High Court and also it was declared that he acquired temporary status as having continuously worked for 6 months. This oral evidence is supported by Ex.P1 the copy of the order in W.P.7789/86 dated 19-1-1986, Ex.P5 a common order in batch of writ petitions and Ex.P6 dated 19-1-1986 is another xerox copy of the order of W.P. No.7789/86. These orders amply established that the petitioner has been declared as having acquired temporary status on the expiry of 6 months continuous employment and the termination order is liable to be quashed. While it was so the respondents filed Exs. M1 to R5 i.e., xerox copy of the alleged fake service card submitted by the petitioner, xerox copy of the letter from P.W.1, Rajahmundry, xerox copy of the letter addressed by the Chief Project Manager, xerox copy of the standard form of charge sheet and xerox copy of the 2nd charge sheet (Standard Form No.5) to show that the petitioner has obtained the employment by using a fake casual service card as genuine one and an enquiry has been initiated. This departmental enquiry (D&ER Enquiry) has nothing to do as far as the present claim is concerned. Nothing prevents the respondents to take action against the individual if it is proved that he obtained employment by using a fake certificate. But till then he having worked continuously for more than 6 months and acquired temporary status he is entitled to all attendant benefits such as wages, allowances, leave credit etc., This has been admitted by R.W.1 himself in his cross-examination. It is also admitted by R.W.1 that the petitioner ~~was reinstated to duty only~~ with effect from 27-5-88 even though the writ petition was ordered on 18-1-88. He clearly admits that the petitioner never abstained himself from 20-5-86 to 26-5-88 but the department itself terminated the services of the petitioner, that means the petitioner-workman was illegally prevented by the respondents from discharging his duties by issuing illegal ter-

Both sides were heard.

The point that arises for consideration is:-

Whether the petitioner is entitled to the amounts claimed by him?

Points:- It is the case of the respondent that the petition does not lie U/s. 33 C (2) of I.D. Act, as the very appointment of the petitioner is in dispute and this forum cannot adjudicate the dispute with regard to the status of the petitioner as workman. The contention of the petitioner-workman is that he fulfilled all the conditions of the definition of workman and there is already declaration as to his status as per the orders in the Writ Petition and therefore it is not open to the respondents to challenge his status as workman or his acquiring any temporary status now and the departmental enquiry has not been initiated so far and even if it is initiated it has nothing to do with regard to the payment of claims to which he is illegally entitled under law and therefore the contention of the respondent is not tenable. The counsel for the petitioner also contended that the petitioner is entitled to the wages, other allowances and attendant benefits for the period for which he was prevented from attending the duty.

The respondent's counsel contended that the general rule of no work, no pay is applicable to the petitioner and as the petitioner has not worked during the period of termination till his reappointment and therefore they have no liability to pay the said sums.

The scope of Sec. 33 C (2) is no doubt limited. The forum is intended only to find out whether any money due to a workman from the employer is to be decided by the Labour Court. The application on this Sec. 33 C (2) is ousted when there is dispute with regard to the status of the claimant i.e., when there is objection with regard to the petitioner being not a workman, but if the court *prima facie* satisfies itself that the objection is frivolous it can proceed with enquiry to find out whether the petitioner is entitled to the amounts claimed by him.

*Chand*

(S) (H) : 6 :

in the proceeding paras that the petitioner workman is entitled to claim monthly wages, H.R.A.C.C.A. with all its attendant benefits etc., for the prevented period and to this amount only the petitioner is entitled. Since the claim made in Sl.No.2 from 31-5-86 to 26-5-88 has been fully paid the respondents are not liable to pay the same once again. Thus I hold that the petitioner workman is entitled to the monthly wages, H.R.A.C.C.A, Leave Credit, increments and all attendant benefits from 31-5-86 to 26-5-88 and I find this case and point accordingly. (Signature) Shri C. Rambabu

In the result I partly allow the petition and order payment of monthly wages, H.R.A.C.C.A, Leave Credit, increments and all attendant benefits from 31-5-86 to 26-5-88 by the respondents within two months from the date of this order failing which the respondents are liable to pay interest at 12% per annum from the date of payment. Each party is directed to bear their own costs. It is so ordered.

This is dictated to the shorthand writer, transcribed by him, corrected and pronounced by me in open court, this the 5th day of December, 1992. At the office of Justice C.R. Rambabu, Presiding Officer.

Sd. C.Rambabu,  
Presiding Officer.

Appendix of Evidence:

Witnesses Examined for:

Petitioner: Respondents:  
P.W.1/ Sri K. Mohanarao.

P.W.1/ Sri Bheka Srihari. Document marked for: P.W.1/

C and Petitioner: Copy of application made to Ex.P1/ 18-1-88: Copy of order of the High Court of A.P. Hyderabad in batch P.W.1/ 17-1-88. W.P. No. 7789/86.

Ex.P2/ 20-6-88: Copy of request letter of the petitioner to the Deputy Chief Signal & Telecommunication SCR, Secunderabad, A.P. on 20-6-88.

Ex.P3/ -- : Postal receipts bearing Nos. 1862 and 1863.

Ex.P4/ 17-2-89: Orders of the DSP/ CLS/ RF/ SC of the Indian Railways.

Ex.P5/ 18-1-88: Copy of order of the High Court of A.P. in batch P.W.1/ 17-1-88.

For Respondents:

Ex.R1/ -- : Xerox copy of fake Service card of the petitioner.

Ex.R2/ -- : Xerox copy of letter of the P.W.I.S.C. Railway,

110 Jumbashahar, Secunderabad, dated 21-2-1981.

Ex.R3/ -- : Xerox copy of letter of C.P.M.S.C.Rly. Addressed to D.C.S. & Telecommunication Engineer, Secunderabad.

Ex.R4/ -- : Xerox copy of standard form of charge sheet dated 21-2-1981 issued to the petitioner by the management.

mination order. So it cannot be said that the petitioner-workman has abstained from duty. In such case the contention of the respondents that no work no pay has no application in this case as it is not the petitioner who abstained from duty but it was the respondents themselves have prevented him from attending to duty. Therefore, the petitioner is entitled to the wages and other allowances and attendant benefits for the period for which he was illegally prevented from attending to duty.

As seen from the schedule the petitioner claims arrears of amounts for the period he was prevented i.e., from 31-5-86 to 26-5-88 and also the arrears due to him from 1-1-84 to 26-5-88 as per orders declaring him attaining temporary status. In view of the discussion supra there is no dispute about the petitioner's right to claim the amounts for the period from 31-5-86 to 26-5-88. It is not the case of the respondents that they have paid the amounts for that period. In view of the Writ Petition order the respondents are liable to pay the said sum.

The second claim i.e., difference of arrears from 1-1-84 to 26-5-88 which is added in the petition by way of amendment as Ex. P4 is an order No. VBRE/C.S/2 E/249 dated 17-2-89 declaring the petitioner and other having completed continuous service as 260 days they were granted temporary status with effect from 1-1-84.

Of course without prejudice to the proceedings of the D & AR action pending against them. R.W.L Sri K. Mohanarao has admitted that when once the employee is given temporary status he gets the benefits of basic pay, D.A.H.R.A, C.C.A. leave credit and increments. But we also asserts that the petitioner was paid arrears from 1-1-84 to 26-5-88. The petitioner as P.W.L admitted in his cross-examination the payment of arrears in pursuance

Ex. P4 order from 1-1-84 to 20-5-86. So the difference is with regard to the period of presentation of duty from 31-5-86 to i.e., the period of termination and reinstatement that the

has claimed in Sl. No. 1 of the claim petition. I have already

EW. N. 1000

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: 7 :

Ex.R5/-- : Xerox copy of 2nd charge sheet issued to the petitioner by the respondent.

Ex.R6/-- : Xerox copy of order of High Court of A.P.Hyderabad in W.P.No.7789/86.

Sd. C.Rambabu,  
Presiding Officer.

11 true copy 11

Chittorwala

Superintendent,  
Labour Court, Guntur.

Civil  
Typed by &  
Compared by:

S. A. S.

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LABOUR COURT: GUNTUR.  
C.A.No.297/92.

Date of filing: 30-12-92

Date of calling: 12-1-93

Amount B.No. & Date: Rs.10/- BIII/222/6-2-9

Date of ready: 3-1-93

Date of delivery:

Chittorwala

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Superintendent,  
Labour Court, Guntur.

T/C.  
Daj

Ministry by the target dates. It was further stated that a detailed letter regarding group 5.1(ii) would follow. Such a letter was issued on June 25, 1984. Thereafter, these matters were set out for examining the fairness and justness of the Scheme and whether the court would be in a position to dispose off these petitions in view of the Scheme. That is how these matters came up before us.

The relevant portions of the Scheme read as under:-

"5.1. As a result of such deliberations, the Ministry of Railways have now decided in principle that casual labour employed on projects (also known as 'project casual labour') may be treated as temporary on completion of 360 days of continuous employment. The Ministry have decided further as under:-

- a) These orders will cover:
  - i) Casual labour on projects who are in service as on 1.1.84 ; and
  - ii) Casual labour on projects who though not in service on 1.1.84, had been in service on Railways, earlier and had already completed the above prescribed period( 360) days of continuous employment or will complete the said prescribed period of continuous employment on re-engagement in future. ( A detailed letter regarding this group follows).
- b) The decision should be implemented in phases according to the schedule given below:-

Length of Service (i.e., continuous employment)	Date from which may be treated as temporary.	Date by which decision should be implement
i) Those who have completed five years of service as on 1.1.84.	1.1.1984	31.12.1984
ii) Those who have completed three years but less than five years of service as on 1.1.1984.	1.1.1985	31.12.1985
iii) Those who have completed 360 days but less than three years of service on 1.1.1984.	1.1.1986	31.12.1986
iv) Those who completed 360 days after 1.1.1984	1.1.1987 or the date on which 360 days are completed whichever is later.	31.3.1987

IN THE SUPREME COURT OF INDIA  
CIVIL ORIGINAL JURISDICTION

WRIT PETITIONS NOS. 147, 320-69, 454, 4335-4434, 83 etc.,

Inder pal Yadav and ors. etc.

Petitioner.

versus

Union of India & Ors. etc.

Respondents

JUDGEMENT

Desai, J.

Articles 41 and 42 of the Constitution notwithstanding, there are certain grey areas where the rule of hire and fire, a legacy of laissez-Faire, even in Government Employment still rules the roost. Casual labour employed on projects also known as 'project casual labour' is one such segment of employment where one may serve for years and remain a daily rated worker without a weekly off, without any security of service, without the protection of equal pay for equal work. in short at the sweet will and mercy of the local strappers. Even the formidable Railwaymen's unions least cared for these helpless and helpless workmen. Suddenly a torrent of writ petition and petitions for special leave awakened this Court to the plight of these, workmen. In quick succession, 48 Writ petitions and 32 petitions for special leave flooded this Court. In each writ petition/S.L.P., the grievance was that even though the workmen styled as 'project casual labour' had put in continuous service for years on end to writ ranging from 1974 till 1983, yet their services were terminated with impunity under the specious plea that the project on which they were employed has been wound up on its completion and their services were no more needed. No one is unaware of the fact that Railway Minister, has a prospective plan spreading over years decades and projects are waiting in queue for execution and yet these workmen were shunted out ( to use a cliche from the Railway vocabulary) without any chance of being re-employed. Some of them rushed to the court and obtained interim relief. Some were not so fortunate. At one stage some of these petitions were set down for final hearing and the judgement was reserved. When some other similar matters came up, Mr. K. G. Bhagat, the then learned Additional Solicitor General, requested the court not to render the judgement because he would take up the matter with the Railway Ministry to find a just and humane solution affecting the livelihood of these unfortunate workmen. As the future of lakhs of workmen going under the label of casual project labour was likely to be effected, we repeatedly adjourned these matters to enable the Railway Ministry to work out a scientific scheme.

Railway Ministry framed a Scheme and circulated the same amongst others to all the General Managers of Indian Railways including production units as per its circular No. E(NG) II/84-CL/41 dated June 1, 1984. In the scheme it was stated that all the General Managers were directed to implement the decision of the Railway

To avoid violation of Art.14 the scientific and equitable way if implementing the scheme is for the Railway administration to prepare, a list of project casual labour with reference to each division of each railway and then start absorbing these with the longest service. If in the process any adjustment are necessary, the same must be done. in giving this direction, we are considerably influenced by the statutory recognition of a principle well known in industrial jurisprudence that the men with longest service shall have priority over those who have joined later on. In other words, the principle of last come first go or to reverse it first come last go as enunciated in Sec. 25G of the Industrial Disputes Act, 1947 has been accepted. We direct accordingly.

All these writ petitions and special leave petitions shall stand disposed of consistent with the scheme as modified by this judgement and the directions herein given.

The scheme as would stand modified by the directions herein given forms part of this judgement and a copy of it shall be annexed to this judgement.

Learned counsel Shri Anis Suhrawardy has put in the maximum labour in making a very useful compilation. He must have spent days and months. The compilation helped us the most in dealing with the writ petitions and the special leave petitions and in ascertaining the proper principle. Such a compilation ought to have been prepared by the Railway Administration.

Therefore, we direct the Union of India to pay Rs.5,000/- as and by way of costs to Shri Anis Suhrawardy, Advocate, Supreme Court.

New Delhi.  
April 18, 1985.

sd/- x x (D.A. DESAI)  
sd/- x x (RANGANATHA MISRA)

T/c

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Day

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5.2 The Ministry would like to clarify there that casual labour on projects who have completed 180 days of continuous employment would continue to be entitled to the benefits now admissible to them (so long as they fulfill the conditions in this regard) till they become due for the benefits mentioned in the preceding sub-paragraph.".

By and large the scheme certainly is an improvement on the present situation though not wholly satisfactory. However, the Railway being the biggest employer and having regard to the nature of its work, it would have to engage casual labour and therefore, as a preliminary step towards realisation of the ideal enshrined in articles 41 and 42, we propose to put our stamp of approval on the scheme with one major variation which we proceed to herein set out.

The scheme envisages that it would be applicable to casual labour on projects who were in service as on January 1, 1984. The choice of this date does not command to us, for it is likely situated persons and expose some workmen to arbitrary discrimination flowing from fortuitous court's order. To Illustrate in some matters, the court granted interim stay before the workmen could be retrenched while some other were not so fortunate. Those in respect of whom the court granted interim relief by stay/suspension of the order of retrenchment, they would be treated in service on 1.1.1984 while others who fail to obtain interim relief though similarly situated would be pushed down in the implementation of the Scheme. There is another area where discrimination is likely to rear its ugly head. These workmen come from the lowest grade of Railway service. They can ill afford to rush to court. Their hardly been of any assistance. They had individually to collect money and rush to court which in case of some may be beyond their reach. Therefore, some of the retrenched workmen failed to knock at the doors of the court of justice because these doors do not open unless huge expenses are incurred. Choice in such a situation, even without crystal gazing is between incurring expenses for a litigation with uncertain outcome and hunger from day to day. It is a Honson's choice. Therefore, those who could not come to the court need not to be at a comparative disadvantage to those who rushed in here. If they are otherwise similarly situated, they are entitled to similar treatment, if not by anyone else at the hands of this Court. Burdened by all these relevant considerations and keeping in view all the aspects of the matter, we would modify part 5.1(a)(i) by modifying the date from 1.1.1984 to 1.1.1981 with this modification and consequent rescheduling in absorption from that date onward, the Scheme framed by Railway Ministry is accepted and a direction is given that it must be implemented by recasting the stages consistent with the change in the date as herein directed.

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- i) Casual labour on projects who, though not in service on 1-1-84, had been in service on Railways earlier and had already completed the above prescribed period (360 days) of continuous employment or will complete the said prescribed period of continuous employment on re-engagement in future. (A detailed letter regarding this group follows).
- b) The decision should be implemented in phases according to the schedule given below:-

Length of Service (i.e. continuous employment).	Date from which may be treated as temporary.	Date by which decision should be implemented.
i) Those who have completed five years of service as on 1-1-84.	1-1-1984	31-12-1984
ii) Those who have completed three years but less than five years of service as on 1-1-1984.	1-1-1985	31-12-1985
iii) Those who have completed 360 days but less than three years of service on 1-1-1984.	1-1-1986	31-12-1986
iv) Those who complete 360 days after 1-1-1984.	1-1-1987 or the date on which 360 days are completed whichever is latter.	31-3-1987

5.2. The Ministry should like to clarify here that casual labour on projects who have completed 180 days of continuous employment would continue to be entitled to the benefits now admissible to them (so long as they fulfil the conditions in this regard) till they become due for the benefits mentioned in the preceding subparagraph.

5.3. This issues with the concurrence of the Finance Directorate of the Ministry of Railways.

6. Early steps may be taken to implement this decision of the Ministry of Railways by the target dates given above.

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Serial Circular No. 64/84  
Circular letter No. P(R) 407/IV Dated: 14-6-84.

Copy of Railway Board's letter No. E(NG)II/84/CL/41 dated 1-6-84 is published for information guidance and necessary action. Board's letter No. E(NG)II/82/LG-5/4 of 6-6-83 was circulated under serial circular No. 90/83 of 16-6-83.

Copy of Railway Board's letter No. E(NG)II/84/CL/41 dated 1-6-84.

Sub:- Project Casual Labour - Terms of employment of:

Attention is invited to this Ministry's letter No. E(NG)II/82/LG-5/4 dated 6-6-83 in which it was laid down that on completion of 180 days of continuous employment, casual labour employed on projects on the Railways should be given consolidated monthly wages at the rate of the minimum of the scale plus Dearness Allowance thereon instead of only daily rates at 1/30th of the scale rate of pay as was the case till then. Further such casual labour were granted nine holidays on par with open line casual labour instead of only the three national holidays admissible to them earlier.

2. Representations, however continued to be made in Parliament as well as outside for further amelioration in the terms of employment of project casual labour. A number of writ petitions relating to the terms of employment of casual labour are currently pending in the Hon'ble Supreme Court. While hearing the petitions the Hon'ble Court had occasion to make certain observations and suggestions:

3. The two recognised Federations of Railwaymen have been making persistent representations in the PNM and JCM/DC meetings and otherwise that the benefits admissible to casual labour on the open line should be extended to casual labour employed on railway projects too.

4. The Ministry of Railways have reviewed the matter in depth in the light of the aforesaid representations and demands of the recognised Federations. In doing so they have had necessarily to keep in view the financial and other constraints under which the Indian Railways have to operate.

5.1. As a result of such deliberations, the Ministry of Railways have now decided in principle that casual labour employed on projects (also known as "project casual labour") may be treated as temporary on completion of 360 days of continuous employment. The Ministry have decided further as under:-

- a) These orders will cover:
- i) Casual Labour on projects who are in service as on 1-1-84; and

...2...

(b) The decision should be implemented in a phased manner according to the schedule given below:-

Length of service (i.e., continuous employment)	Date from which may be treated as temporary status.
i) These who have completed five years of service as on 1.1.1981	1.1.1981
ii) These who have completed three years but less than five years of service as on 1.1.1981.	1.1.1982
iii) These who have completed 360 days but less than three years of service as on 1.1.1981	1.1.1983
iv) These who completed 360 days after 1.1.1981	1.1.1984

or  
the date on which 360 days are completed whichever is later.

4. Accordingly, in paras 1 and 2 of the Ministry of Railways letter dated 25.6.84, the date "1.1.84" may be read as "1.1.81". The dates occurring in hypothetical illustrations given in para 3 thereof would stand modified correspondingly.-

5.1 As directed by the Supreme Court for implementation of the above scheme, each zonal railway should prepare a list of project casual labour with reference to each Division of each Railway on the basis of length of service. The men with longest service shall have priority over those who have joined later on. In other words, the principle of last come first go (or to reverse it, first come last go) as enunciated in Section 25G of the Industrial Disputes Act, 1947 should be followed.

5.2 The following instructions are given in this regard for guidance of the Zonal Railways.

5.2.1 On each zonal Railway, the list of project casual labour will be prepared for each Division, as under:-

i) Project casual labour employed on works of each of the Departments like Civil Engineering, Signal & Telecommunication, Electrical, etc., within the geographical boundaries of a Division (irrespective of whether the works are executed by a Division or by the Construction Organisation or by the Chief Project Manager/Railway Electrification reporting to the General Manager of a zonal railway) will form one unit (separately for each department) for which one seniority list will be prepared for each department. ~~the seniority list will be prepared for each department~~ In this manner, for each of the Departments on each Division, there will be one separate list of project casual labour employed on works executed within that Division.

ii) within each Department, the seniority list will be prepared according to categories, as under:-

- (a) All unskilled casual labour will be treated as one category
- (b) Semi-skilled casual labour will be treated trade-wise.
- (c) Skilled casual labour will be treated trade-wise.

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SOUTH CENTRAL RAILWAY

No. P (R) / 407 / IV

Serial Circular 110/86  
General Manager's Office  
Personnel Branch/SC  
dated 17.9.86.

All Concerned.

Copy of Board's letter No. E(NG) II/84/CL/4 of 11.9.86 together with its enclosures is forwarded for information, guidance and necessary action. Board's letter dt. 1.6.84 and 25.6.84 referred to thereon were circulated as Serial Circular No. 64/ /84 and 83/84. The target date fixed by Board may be adhered to and the action taken on the implementation of BOARD's orders may please be advised by 26.9.86 and forthwith Report sent thereafter till the Court's orders are implemented fully. The reports may be sent to MPO/E, CPO(O)/SC, by name.

2. Hindi version will follow.

S:/- XXX  
(M. N. RAO)  
For Chief Personnel Officer.

INDEX NO. 1016. Project Casual Labour.

Based on the Supreme Court's orders, it was decided by Board that CLs employed on Projects (Project CLs) may be treated as temporary (temporary status) on completion of 360 days continuous employment and this decision should be implemented in a phased manner as advised by Board.

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Copy of Board's letter No. E(NG) II/84/CL/41 dated 11.9.86 from Dy. Director Establishment (N) Railway Board/New Delhi to all concerned.  
Sub:- Project Casual Labour terms of employment of.

Reference Ministry of Railways now Department of Railways letters of even number date 1.6.84 and 25.6.84 on the above subject.

The scheme outlined in para 5.1 of the Ministry of Railways letters of even number dated 1.6.84 read with the letter dated 25.6.84 for treating project casual labour as temporary, was placed before the Hon'ble Supreme Court in Writ Petitions No. 147, 320-69, 454, 4335-4434/83 etc., Inder Pal Yadav & Ors etc. versus Union of India & Ors etc., The Supreme Court has approved the scheme subject to modifications indicated in the judgement dated 18.4.85 a copy of which is enclosed.

3. Keeping in view the direction given by the Supreme Court in the said judgement and in their orders dated 11.8.86 (copy enclosed) para 5.1 of the aforesaid letter of 1.6.84 should be substituted by the following, the other provisions of the same remaining unaltered;

"5.1. As a result of such deliberations the Ministry of Railways have now decided in principle that casual labour employed on projects (also known as "project casual labour") may be treated as temporary (Temporary status) on completion of 360 days of continuous employment. The Ministry have decided further as under:-

(a) These orders will cover:-

- i) Casual labour on projects, who were in service on 1.1.81, and
- ii) Casual labour on projects, who though not in service on 1.1.81, had been in service on Railways earlier and had already completed the above prescribed period (360 days) of continuous employment or have since completed or will complete the said prescribed period of continuous employment on re-engagement after 1.1.1981,

(26)

iii) In cases where the execution of a project spreads over more than one Division, the guiding principle will be that all the project casual labour will be assigned to the division in which the station where they were initially engaged is located. This will be covered by the direction of the Hon'ble Supreme Court that where the implementation of its direction involves some adjustment, the same must be done.

5.2.2 It is hereby clarified that extra-zonal Railway organisations like Metro Railway would continue to maintain the seniority lists of project casual labour as before, without taking a Division of zonal railway as a reference point. In doing so, they should comply with, among other things, the relevant provisions of the Industrial Disputes Act, 1947 and the rules made thereunder.

5.2.3 The seniority list of project casual labour engaged by project organisations will be recast by the zonal/Construction Railway Administrations in the aforesaid manner as on the 1st April, 1985 to cover all project casual labour who have been in employment at any time from 1.1.1981, onwards. The lists so prepared will be used for any subsequent, engagement/re-engagement/discharge of project casual labour. Any such discharge, where so warranted, due to reduction or completion of work or for other administrative reasons will be effected after complying with the relevant provisions of the Industrial Disputes Act, 1947, the Industrial Disputes(Central)Rules, 1957 and the orders applicable to project casual labour.

6. Steps may be taken immediately for implementation of the orders contained in the Deptt. of Railway's letters of 1.6.84 and 25.6.84 aforesaid as modified above on the basis of the judgement of the Supreme Court. Due verification of claims in each individual case will, no doubt, be done by the respective Railway Administrations.

7.1 The process of preparation of seniority list and action as directed above, must be completed within two months from 11th August, 1986, as per orders dated 11.8.86 of the Hon'ble Supreme Court. To ensure full implementation of the orders of the Supreme Court, a committee comprising a D.P.O., DEN a DEN(Constituted) on each Division will meet and review the implementation every week. Similar Committee should function for each of the other Departments engaging project casual labour. Similarly in the Headquarters of each zonal Railway, a committee comprising the CPO, the C.E., C.E.(Constituted) CSE and CEE should review the implementation of these orders each fortnight till the Court's decision is implemented. The personnel Officer on these committees will act as the co-ordinating officer of the respective committees for the purpose of monitoring the progress of implementation. A detailed report in this regard should be sent to the Board in phases, the first by 30th September, 1986 and the second by 15th October, 1986.

7.2 The Department of Railways also desire that in every Department engaging project casual labour in each Division of each Railway, an Officer, not lower in rank than Senior Scale must be nominated who will be responsible for maintaining the combined seniority list of project casual labour of his deptt. and for co-ordinating with other officers of that department so as to ensure proper operation of the list in the manner detailed in para 5.2.3 supra in terms of these orders. This list must be reviewed by the said officer atleast once a year before 30th September of every year. The officer so nominated should be one suitable to handle a task of this type.

8. This issues with the concurrence of the Finance Directorate of the Deptt. of Railways.

9. Please acknowledge receipt.

Sd/-xx

(M. KUJUR)

By Director Establishment (N) Rly. Board

New Delhi.

Copy to: FA&CAs, all Indian Railways, CLW, DLW & ICF.

(2)

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-1-2-1-

POINT PAPER OF THE CASE

1. The petitioner was engaged by the Divisional Signal & Telecommunications Engineer (C.L.S), Railway Electrification, South Central Railway, Hazipet on 21-6-1982.
2. The petitioner is a workman within the meaning of Sec. 2(a) of the Industrial Disputes Act, 1947 and the provisions of the said Act are applicable to him.
3. Ever since the date of appointment, the petitioner was working continuously to the best satisfaction of his superiors. While so, the 3rd Respondent terminated the services of the petitioner illegally with effect from 31-5-1986 vide letter no. Vansu/Div/3/352/7 dated 30-5-1986.
4. Therefore, the petitioner filed a writ petition no:7739/36 in the High Court of Judicature, Andhra-Pradech at Hyderabad against the order of the Respondent dated 31-5-1986 terminating the services of the petitioner. The Hon'ble Court of A.P. quashed the said order passed by the 3rd Respondent vide order delivered on 18-1-1983 and also declared that the petitioner acquired temporary status on the expiry of six months continuous employment.
5. As per the above order delivered by the Hon'ble High Court of A.P., the petitioner was taken to duty by the 3rd Respondent with effect from 21-5-1983 under the proceedings of the 3rd Respondent vide Letter no:4.252/Vansu/3030/10/ dt.25.5.1983.
6. Under the facts stated above, the petitioner is entitled for payment of wages for the period of prevention from duty, illegally against the said order of termination from 31.5.1986 to 27.5.1988 along with temporary status on the expiry of six months continuous employment. In this connection the petitioner requested the Management for payment of the arrears from 30-5-1986 to 26-5-1988 orally several times and finally demanded in writing vide Letter dated 20-6-1988 but the Respondents did not pay the said arrears (wages) to the petitioner. Moreover the petitioner is also entitled for temporary status arrears from 1-1-1984 as per the Hon'ble Supreme Court judgement.

Contd.....3.

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(31)

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BEFORE THE INSPECTOR OF OFFICES &amp; LABOUR COURT &amp; GUNTUR.

C.R.I. nos 29 of 1933.

Petitioner:-

Rekha Chandra Ti.  
 Casual Khaliqi Worker,  
 Railway Electrification,  
 South Central Railways.  
 and .. PETITIONER.

1. The Chief Signal & Telecommunications  
Engineer (Signals), South Central  
Railway, Vizianagaram.
2. Union of India, per General Manager,  
South Central Railway, Secunderabad.
3. The Deputy Chief Signal & Telecommunications  
Engineer (Signals), Railway Electrification,  
S.C.R., Secunderabad.
4. The District Signal & Telecommunications  
Engineer (D.S.) Railway Electrification,  
Bolaru Kazipet, Warangal District.
5. The Signal Inspector, Railway Electrification,  
Guntur, South Central Railway, Guntur  
District.

.. RESPONDENTS.

1. TITLE: FILING OF CLAIM ON BEHALF OF THE PETITIONER UNDER S.C. 33-C(2) OF  
THE LABOUR STANDARDS ACT, 1947.

The undersigned petitioner, an ex-workman of the above-mentioned respondents-management is entitled to receive from the said respondents-management, the money benefits mentioned in the statement hereto annexed.

It is prayed that this Hon' Court be pleased to determine the amount due to the petitioner and direct the respondents to pay the same to the petitioner with costs.

Place: Guntur.  
Date: 17-7-1933.

R. B. A. K.  
PETITIONER.

ANNEXURE

1. Name	2. M. SRIHAKI.
2. L.I.I.No.	3. 161.
3. Designation	4. Casual Khaliqi Worker.
4. Date of joining	5. 21-6-1932.
5. Period of service	6. 6 (six) years.

P.T.C.

(29)

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- 3 -

Therefore the petitioner is compelled to file this petition for recovery of money due to him from the Respondents.

Job No. Period for which Wages payable... Total amount due.  
the wages are per Month.  
payable.

1. 1-1-1984 to 30-5-86. Arrears. To be computed and determined.

2. 31-5-86 to 26-5-88. As per temporary status. -AO-

Ch/1 A DRAFT FOR PETITIONER.

Dt. -7-1988.

R. S. D. D.

PETITIONER.

I do hereby declare that the above facts are true and correct to the best of my knowledge, belief and information.

T/C  
Daj

R. S. D. D.  
PETITIONER.

## . TUMULU : 66300 BRIEF FACTS OF THE CASE.

1. The Petitioner was employed by the Divisional Signal & Telecommunications Engineer (CLS), Railway Electrification, South Central Railway, Kazipet on 21.6.1982.
2. The Petitioner is a workman within the meaning of Sec. 2(s) of the Industrial Disputes Act, 1947 and the provisions of the said Act are applicable to him.
3. Ever since the date of appointment the petitioner was working continuously to the best satisfaction of his superiors. While so, the 3rd Respondent terminated the services of the petitioner illegally with effect from 31.5.1986 vide letter No. VERE/CLS/E/352/7, Dated 30.5.1986.
4. Therefore, the petitioner filed a writ Petition No: 7789 in the High Court of Judicature, Andhra Pradesh at Hyderabad against the order of the Respondent dated 30.5.1986 terminating the services of the petitioner. The Hon' Court of A.P. quashed the said order passed by the 3rd Respondent vide order delivered on 18.1.1988 and also declared that the petitioner acquired temporary status on the expiry of six months continuous employment.
5. As per the above order delivered by the Hon' High Court of A.P., the petitioner was taken to duty by the 3rd Respondent with effect from 27.5.1988 under the proceedings of the 3rd Respondent vide letter No:E.252/VBRE/3080/10, Dt.25.5.1988.
6. Under the facts stated above, the petitioner is entitled for payment of wages for the period of prevention from duty, illegally against the said order or termination from 31.5.1986 to 27.5.1988 along with temporary status on the expiry of six months continuous employment. In this connection the petitioner requested the Management for payment of the arrears from 30.5.1986 to 26.5.1988 orally several times and finally demanded in writing vide Letter dated, 20.6.1988 but the Respondents did not pay the said arrears (wages) to the petitioner. Moreover the petitioner is also entitled for temporary status arrears from 1.1.1984 as per the Hon' Supreme Court Judgement.
- 6.A. The Petitioner is entitled to the increments, H.R.A, C.C.A(City Allowance), Leave credit and all attendant benefits from 31.5.1986 to 26.5.88".

Para 6.A is added as per orders in I.A. 411 of 91, Dt. 16.11.9

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BEFORE THE PRESIDING OFFICER : LABOUR COURT : GUNTUR.

M.P.N.O: 29 of 1988.

Between  
Rakha Srihari,  
Casual Khalasi Worker,  
Railway Electrification,  
South Central Railway.

... PETITIONER.

And

1. The Chief Signal & Telecommunications  
Engineer (Signals), South Central  
Railway, Vijayawada.

2. Union of India, per General Manager,  
South Central Railway, Secunderabad.

3. The Deputy Chief Signal & Telecommunications  
Engineer (Signals), Railway Electrification,  
S.C.R., Secunderabad.

4. The District Signal & Telecommunications  
Engineer (CLS), Railway Electrification,  
S.E.R. Kazipet, Warangal District.

5. The Signal Inspector-II, Railway Electrification,  
South Central Railway, Kazipet,  
Warangal District. ... RESPONDENTS.

PETITION FILED ON BEHALF OF THE PETITIONER UNDER SEC.33-C(2) OF

THE INDUSTRIAL DISPUTES ACT, 1947.

The Undersigned Petitioner, an ex-workman of the above  
mentioned Respondents-Management is entitled to receive from  
the said Respondents-management, the money benefits mentioned  
in the statement hereto annexed.

It is prayed that this Hon'Court be please to determine  
the amount due to the Petitioner and direct the Respondents  
to pay the same to the Petitioner with costs.

STATION : GUNTUR.

DATE : 17.7.1988 PETITIONER.

ANNEXURE.

1. Name : R.SRIHARI.  
2. L.T.I.No : 161.  
3. Designation : Casual Khalasi Worker.  
4. Date of joining : 21.6.1982.  
5. Period of Service : 6 (Six) Years.

p.t.o.

Ex-Workman

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Therefore the Petitioner is compelled to file this petition for recovery of money due to him from the Respondents.

S.No.	Period for which the wages are payable.	Wages Payable per Month.	Total Amount due.
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1.	31.5.86 to 26.5.88	Monthly wages HRA, To be computed CCA, leave credit, and determined. increments and all attendant benefits	
2.	1.1.84 to 26.5.88	As per temporary Status Rs.1,500/-P.M.	-do-

( The above serial Number 1 and 2 are emended as per orders in I.A. 411 of 1991, dt. 16.11.91.)

ADVOCATE FOR PETITIONER,

Dt. 3.1.1992.

T/C  
2 Day

10/10/91

10/10/91

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and the words " 1.1.84 to 26.5.88" may be substituted in its place.

In para 6 of the petition, after para 6, the following para 6(a) may be added:

"6(a). The petitioner is entitled to the increments, H.R.A., C.C.A. (City Allowance), Leave Credit and all attendant benefits from 31.5.86 to 26.5.88".

I, Else, I will suffer great loss and hardship.

to the best of my knowledge, the above is true.

I solemnly affirm and state before me on this the 19th day of October, 1991, that the above is true to the best of my knowledge.

I declare that the above is true to the best of my knowledge.

To the best of my knowledge, the above is true to the best of my knowledge.

I declare that the above is true to the best of my knowledge.

I declare that the above is true to the best of my knowledge.

I declare that the above is true to the best of my knowledge.

I declare that the above is true to the best of my knowledge.

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I declare that the above is true to the best of my knowledge.

I declare that the above is true to the best of my knowledge.

I declare that the above is true to the best of my knowledge.

I declare that the above is true to the best of my knowledge.

I declare that the above is true to the best of my knowledge.

BEFORE THE PRESIDING OFFICER :: LABOUR COURT :: GUNTUR.

I.A.No. 191 in M.P.No.29/88.

Between:-

Reka Srihari, ... Petitioner-Petitioner  
and

The Chief Signal & Telecommunications  
Engineer (Signals) South Central  
Railway, Vijayawada & Others. ... Respondents-Respondents.

AFFIDAVIT FILED ON BEHALF OF THE PETITIONER - PETITIONER u/s.139 C.P.C.

---: 0 :---

I, Reka Srihari s/o Venkateswarlu \_\_\_\_\_, aged about years, casual labour, Railway Electrification, South Central Railway, Kazipet, today having temporarily come down to Guntur, do hereby solemnly affirm and state on oath as follows:-

1. That I am the workman within the meaning of Soc.2(a) of the I.D. Act and I was working continuously to the satisfaction of my superiors. While so, 3rd respondent terminated my services illegally with effect from 31.5.86. I filed Writ Petition No. 7789/86 in the High Court, Hyderabad against the order of the 3rd respondent. The High Court quashed the said order on 18.1.88 and declared that I have acquired temporary status on the expiry of six months continuous employment. Subsequently, the 3rd respondent has taken me to duty with effect from 27.5.88. Now, I am entitled to the amounts mentioned in the annexure. Hence, I filed the above M.P. and sought for a direction to the respondents for payment of the amounts due to me. I am entitled to the H.R.A., C.C.A. (City Allowance), Leave Credit, Increments with all attendant benefits besides the arrears of from 31.5.86 to 26.5.88 and temporary status from 1.1.84 to 26.5.88. At the time of filing the above petition in the annexure of the petition, by mistake in Serial No.1, the arrears were mentioned from 1.1.84 to 30.5.86 instead of 31.5.86 to 26.5.88. Likewise, in Serial No.2., the temporary status is mentioned as from 31.5.86 to 26.5.88 instead of 1.1.84 to 26.5.88. It is only a type mistake and it is not wilful. As such, I was advised to get amend the same.

2. Therefore, it is just and necessary that the Hon'ble Court may be pleased to permit me to amend in the Annexure as follows:-

At Serial No.1., the words 1.1.84 to 30.5.86 may be deleted and in its place "31.5.86 to 26.5.88" may be substituted.

At Serial No.2. ~~as~~ after the word, "arrears", the words monthly wages, "H.R.A., C.C.A. (City Allowance), Leave Credit, Increments and all attendant benefits" may be added. Substituted.

At Serial No.2, the word "31.5.86 to 26.5.88" may be deleted

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BEFORE THE PRESIDING OFFICER : LABOUR COURT, GUNTUR.

CMP No. 29 of 1988

Between:

Sri Rakha Srihari son of  
Sri R. Venkateswerlu .. . . . PETITIONER  
AND AND  
1. The Chief Signal & Telecommu-  
nication Engineer(Signals) R.E.,  
South Central Railway,  
Vijayawada.  
2. Union of India per General Manager,  
South Central Railway,  
Secunderabad and  
3. The Deputy Chief Signal & Telecommu-  
nication Engineer (Signals) Railway  
Electrification, Secunderabad. . . . RESPONDENTS

COUNTER FILED ON BEHALF OF THE RESPONDENTS.

about 55 years, residing at Secunderabad, do hereby  
solemnly affirm and state as follows:

2. I am working as District Signal and Telecommu-  
nication Engineer, Colour Light Signalling, Railway  
Electrification, Secunderabad. As such I am well  
acquainted with the facts of the case. I am filing  
this affidavit on behalf of all the respondents.

3. I have read the affidavit of the petitioner and  
I submit that it does not disclose any valid ground  
for granting the relief sought for by the petitioner.  
I deny all the allegations made in the affidavit and  
those specifically and expressly admitted herein under:

1st page  
No. of corrections:

—Ch. Suryanarayana  
Proprietor,  
శిక్షిక్షాసాహి/రాష్ట్రా/రేవి/ఎస్.ఎస్.  
DSTE / CLS / RE / SG

Contd., P.2

(36)

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4. Most of the allegations made in the petition are false, incorrect and misleading and invented for the purpose of filing this petition. The petition itself is not at all maintainable in Law. Without production of genuine service card the petitioner cannot seek any kind of relief in this application. When the service card itself is a false one, the petitioner has no right to file this application under Section 33 (c) (ii) of the I.D.Act. This respondent respectfully submits that this Hon'ble Court has no jurisdiction to entertain this type of application under Section 33 (c) (ii) of the I.D.Act. Hence this respondent prays that the Hon'ble Court may be pleased to dismiss the petition with costs.

5. Without prejudice to the contentions of the respondent this respondent submits the following facts.

The petitioner was terminated from service with effect from 31-5-86 as the petitioner has secured appointment ~~in Rajahmundry - 1~~ stated to have been issued by Permanent Way Inspector, South Central Railway, Rajahmundry, showing that he worked under the Permanent Way Inspector, Rajahmundry in different spells between 10-9-81 to 9-12-81 and 18-2-82 to 9-4-82. Challenging the said termination order the petitioner herein filed W.P.No. 7739 of 1986 in the High Court of Andhra Pradesh, Hyderabad praying to quash the said order dated 30-5-86. The said W.P. was disposed of

2nd page.  
No. of corrections:

*Ch. Sengar A*  
Deponent:  
बलिहारी / रमेश / रवि / एस.जी.  
DSTB / CLS / KB / SG  
Concd... p.3

along with other W.Ps and it was ordered quashing the impuned order and it was declared that the petitioner acquired temporary status on the expiry of 6 months continuous employment.

6. Pursuant to the said order of Hon'ble High Court of Judicature, the petitioner was taken back to duty on 27-5-88 by the 3rd respondent vide Chief Project Manager, Railway Electrification, Vijayawada's letter No. E.252/VERE/3080 without prejudice to the D&AR action that may be levelled against him at a later date. D&AR Enquiry is now instituted against the petitioner and the matter will be pursued according to merits/demerits of the enquiry proceedings. In this connection the respondents herein submit that while disposing of similar case filed by Sri P. Sathiah from Central Appellate Tribunal, Hyderabad the Hon'ble Tribunal was pleased to order that "It is open to the respondents to hold an enquiry according to the prescribed procedure and take such action as they deem fit. The application is allowed with the above directions. There will be no order as to costs." Copy of the Tribunal's order in O.A. No. 579 of 1987 is filed herewith for the kind consideration of this Hon'ble Court.

7. In view of the above the petitioner has never performed any duty during the period from 31-5-86 to 27-5-88, and as such there is no established right vested on the petitioner so as to put forth his ~~xx~~ claim before this Hon'ble Court.

3rd page.

No. of corrections:

Ch. Sengar, M.

Respondent.

झलिहरसंह/रंबसि/रेवि/एससि

DSTE / CLS / RB / SC

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8. For the reasons stated above, the respondents herein pray this Hon'ble Court to reject the claim of the petitioner thereby dismissing the above petition in the interest of Justice, with costs.

Secunderabad,

Dt. -7-'89.

Ch. Sanyasi Rao  
(CH. Sanyasi Rao)  
District Signal & Telecom.Engineer,  
(Colour Light Signals) RE.,  
South Central Railway, Secunderabad.

बिहसंइ/रंबसि/रेबि/एसडि  
DSTE/CLS/RE/SG

VERIFICATION.

I, CH. Sanyasi Rao, son of Sri CH. Narayana working as District Signal & Telecom.Engineer (Colour Light Signals) RE., South Central Railway, Secunderabad do hereby declare that the facts stated above are true to the best of my knowledge and belief, hence verified on this day of 10th day of July, Nineteen hundred and eighty nine, at Secunderabad.

Ch. Sanyasi Rao  
(CH. Sanyasi Rao)  
District Signal & Telecom.Engineer (Colour Light Signals) RE., South Central Railway,  
Secunderabad. बिहसंइ/रंबसि/रेबि/एसडि  
Solemnly and sincerely affirm  
this day of August, 1989  
and Sri CH.Sanyasi Rao has signed  
his name in my presence.

DSTE/CLS/RE/SG

(K. Raja Rao)  
COUNSEL FOR THE RESPONDENTS.

Sanjay Chait  
मण्डल सिग्नल और हूरसंचार इंजीनियर  
केबल/रेल विधुतीकरण  
लिंकंडसवाद.  
District Signal & Telecom Engineer  
Cables/Ely. Electrification  
Secunderabad.

T/c  
2 Day

under compulsion. The claim of the applicant that he has worked for more than 120 days and thus he acquired a temporary status and that his services could not have been terminated in this particular arbitrary manner by the respondents.

3. According to the applicant in his application, the respondents have stated that the engagement of the applicant as a casual labourer with effect from 21-10-1980 was made solely on the basis of a casual labour service card produced by the applicant. Subsequent to the engagement of the applicant, the matter was enquired into and it was found that the particulars reflected in the so called labour card furnished by the applicant were false. The respondents further asserted that the labour card itself was not genuine but a fake document. Since the applicant obtained the employment by fraud, his services were rightly terminated when the authorities came to know of the fraud played by the applicant.

4. The applicant in this case having worked for more than 2½ years with the Railways has acquired a temporary status, his services could not be terminated on the ground of mis-conduct without following the procedure laid down in the Railway Services (L.C.N.) Service Rules. This Tribunal has the power to examine whether an order of termination of service in respect of a temporary employee is punitive in nature or not. In the instant case admittedly the services of the applicant were terminated on the ground of mis-conduct on the part of the applicant. The said alleged mis-conduct should have been subjected to an enquiry allowing the applicant to participate therein. Since the respondents have failed to follow the correct procedure and terminated his services rather abruptly, we find that the same is illegal and cannot be sustained. In the result, the order of termination dt. 8-5-89

Ram Ratan Thakur ..... Applicant

V.B.

Union of India &amp; Others ..... Respondents

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

Hon. Mr. S. N. Prasad, J.M.

(By Hon. Mr. A. B. Gorthi, A.M.)

Aggrieved by the order of removal from service dated 8-5-89 passed by Senior Civil Engineer (H.Q.), Railway Electrification, Allahabad (respondent No.3), the applicant Shri Ram Ratan Thakur, filed this application under section 19 of the Administrative Tribunals Act 1985 requesting that the impugned order of termination of service be set aside with all consequential benefits.

2. The applicant has stated that he was employed as a Casual Labourer under the respondent w.e.f. 21-10-1986 and he continued to work in that capacity for more than 2 years till his services were terminated v/s the impugned order dated 8-5-89. The applicant contends that prior to his engagement the respondents verified all his antecedents and were satisfied before giving him the said appointment. However, some time during December 1986, the Assistant Engineer, Railway Electrification, took a written undertaking from the applicant to the effect that if the facts stated by the applicant with regard to his previous engagements in the Railway, based on which he was given the present assignment, were found to be false, his services would be liable to be terminated. The applicant had no other alternative, but to give the said written undertaking.

(41)

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(Annexure-I to the application) is hereby quashed. The applicant shall be deemed to be continuing in service, but in the circumstances of the case, he shall not be entitled to any backwages for the period from 8-5-89 till the date of his reinstating in service. The applicant shall be reinstated as early as possible, but not later than 1-7-1992 and shall be paid his wages from the date on which he joins his duties. The respondents will be at liberty to proceed against the applicant in accordance with the law for his alleged mis-conduct.

5 The application is allowed in the above terms without any order as to cost.

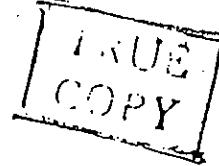
SD/ Member (J)

SD/ Member (A)

Dated 20-5-92, Allahabad.

(tgk)

Approved and signed



(SHRADH KUMAR)  
SECTION OFFICER  
Central Administrative Tribunal  
Allahabad.

TC  
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made to run from pillar to post. We have also before us a document numbered Annexure-6 which contains an order of the rank of an Officer of Assistant General Manager and Deputy Chief Engineer to the effect that the applicant be taken back on duty immediately. The learned counsel for the Railway Administration has contended before us that the said order was passed by the authority having no jurisdiction to pass the same. He fail to understand that

was not authorised to pass such an order. In any case, we have not been shown any order of any other competent authority, in respect of the applicant i.e. whether the applicant was not entitled to be taken back on duty for some reasons or under some provisions of the rules of the Railway Administration. We may also refer to the arguments raised by the counsel of the Railway Administration in this case. The first argument advanced before us was that the applicant was duty bound under section 140 of the Indian Railways Acts to send a registered notice to the Railway Administration. The second argument was that the applicant himself was not interested for the job, therefore, the job was not given. We are constrained to say that neither of these arguments are relevant, whether or not the applicant gave a registered notice to the Railway Administration under section 140 of the Railways Act, the fact remains that the applicant was making frequent appeals to the Railway Administration for taking him back on duty. Thus, it was within the knowledge of the Railway Authorities that the applicant aggrieved with their inaction. In such circumstances, the Railway Administration ought to have passed a speaking order as to why the applicant was not entitled to be taken back on duty.

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because we consider that the lapses if any committed by the Railway Authorities concerned should not be condoned at this stage.

4. In the result, we allow this claim petition and direct the applicant to be reinstated forthwith having the same status as he had in November, 1988 with benefit of his seniority or future regularisation, except that he will not be entitled to pay for the period he has not actually worked. The parties are left to bear their own costs.

MEMBER (A)  
(ans)

January 22, 1991

Allahabad.

MEMBER (J)

TRUE  
CCP  
Abdul  
D. S. DUREY  
Section Officer  
CENTRAL DISPUTE TRIBUNAL  
Allahabad

TD  
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48

Illegible duty, to say that the applicant was not interested in the job, provokes comments. The documents on record clearly indicate that the applicant has been making appeal after appeal for taking him back on duty. The mere fact that the applicant approached the Prescribed Authority under the Payment of Wages Act for payment of wages, is also a positive indication of the fact that the applicant was keen for enforcement of his rights. The submission of the learned counsel for the respondents that the fact that the applicant was litigating before the Prescribed Authority under the Payment of Wages Act raises an inference that he was not interested in the job, to say the least is against the facts on record. Taking into account all these facts, we are unable to agree with the submissions made by the learned counsel for the respondents.

already referred to above that he had acquired the status of a temporary railway servant in November, 1985. If so, it was open to the Railway Administration to draw proceedings against the applicant under Railway Servants (Disciplinary & Appeal) Rules, 1968, for his unauthorised absence for the period from 17-5-86 to 4-6-1986. Further, if the Railway Authorities chose not to take any disciplinary action against the applicant, it was their own action. In any case, it was not open to them to arbitrarily refuse and not allow the applicant to join duty. We are also of the opinion that in the circumstances, it is not proper to permit them now to take disciplinary action against the applicant. We are making this observation

A. K. G. -

(46)

Regd. No. A 9

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

From

The Registrar,  
Central Administrative Tribunal,  
Principal Bench, New Delhi.

Faridkot House,  
Copernicus Marg,  
New Delhi-110001.

Dt. 8.10.92.

To

1. Shri Hari Om through Shri. B.P. Maini,  
Counsel for the applicant,  
CAT, Bar Room, New Delhi.
2. Shri P.N. Sikka, Counsel for the  
respondents,  
B 3/2 Vasant Vihar New Delhi.

Regn. No. O.A. 164/90

SHRI HARI OM

APPLICANT(S)

V/S

UNION OF INDIA & ANR.

RESPONDENT(S)

Sir,

I am directed to forward herewith a copy of Judgement/No. 164/90 passed by this Tribunal in the above mentioned case for information and necessary action, if any.

Please acknowledge the receipt.

Yours

Yours faithfully,

(PUSHPA CHAND)  
SECTION OFFICER (J-II)

Judgement

ment, he had made complaint against anti-social elements indulging in dishonest and corrupt practices. These elements falsely implicated him in a case of theft of one bag of cement. The applicant was arrested by the Railway Protection Force(RPF) on 6.6.86 and was bailed out on 11.6.86. The respondents refused to take him back on duty and did not reply to, as many as 14 of his representations, submitted by him between 1986-89. Ultimately, he served a notice on the respondents through his advocate on 16.10.89. It was from the impugned letter dated 23.11.89 issued by the Divisional Electrical Engineer, Mathura, that he came to know for the first time that he had been removed from service u.s.f. 8.7.86. He claims to have acquired temporary status and protection of Railway Servants (Discipline and Appeal) Rules, 1968. The relevant rules provide that if a person is arrested and remains in custody for more than 48 hours, he should be deemed to have been suspended. His services could have been terminated only after following the prescribed procedure. He has prayed that the impugned order of removal from service be set aside and the respondents be directed to take the applicant back on duty with all consequential benefits.

...3...

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

DA.No.164/90

Date of Decision: 01.10.1992

Shri Hari Om

Applicant

Shri B.S. Mainee

Counsel for the applicant.

Versus

Union of India & Others

Respondents

Shri S.N. Sikke

Counsel for the respondents.

CORAM:

The Hon'ble Mr. P.K. KARTHA, Vice Chairman(J)

The Hon'ble Mr. B.N. DHOUNDIYAL, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *✓*
2. To be referred to the Reporters, or not? *✓*

JUDGEMENT

(of the Bench delivered by  
Hon'ble Member Shri B.N.Dhoundiyal)

This DA has been filed by Shri Hari Om, Ex-Flagman,  
challenging the impugned order dated 23.11.89, passed by the  
Divisional Electrical Engineer (RE) Mathura, intimating his  
removal from service w.e.f. 8.7.86.

2. According to the applicant, he was appointed as Casual  
Labour Khalasi on 8.12.82 under Deputy Chief Electrical  
Engineer (DCE) (RE) Mathura. During the course of his employ-  
*by*

.....Z.....

5. In the conspectus of the facts and circumstances of the case, we hold that the impugned order of removal from service is not legally sustainable. The respondents are directed to reinstate the applicant as casual labourer in any of the projects currently under way in the zone, in which, he was employed, or wherever vacancies exist. Under the circumstances of the case, he will not be entitled to any back wages for the period he remained out of work, but this period will count for his seniority as a casual worker and his case for regularisation will be considered on this basis. We make it clear that after reinstating him in service, the respondents will be at liberty to proceed against him in accordance with the provisions of the Railway Servants(Discipline and Appeal) Rules, 1968, if so advised.

6. There will be no order as to costs.

(B.N. DHUNDIYAL) 11/1/72  
MEMBER(A)

(P.K. KARTHA)  
VICE CHAIRMAN(3)

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3. The respondents have contended that the applicant is not a holder of the casual labour card, and as such, he is not entitled to temporary status. As admitted by himself, he was arrested by the Railway Protection Force on 6.6.86 for theft and was released on bail only on 11.6.86. He was removed from service on account of his arrest and pendency of a criminal case against him. They have denied that any representations were received from him. The learned counsel for the respondents also stated that the Mathura project has since been wound up and there is no possibility of providing employment to the applicant there.

4. We have gone through the records of the case and heard the learned counsel for both parties. The applicant had worked as casual labourer from 8.12.82 to 6.6.86, when he was arrested. Admittedly, he had acquired temporary status as envisaged in Rule 2551 of the Railway Establishment Manual. That being so, he could have been suspended after his arrest and the prescribed procedure of giving him notice and opportunity to defend himself should have been followed before passing orders for his removal. The mere arrest and pendency of a criminal case against the Railway servant, do not enable the authorities to dispense with his service, without complying with the principles of natural justice. *fw*

...4...

A plain reading of the impugned order or notice indicates a positive stigma on the applicants of obtaining employment by misrepresentation and producing forged casual labour cards. Thus a finding of misconduct on the part of the applicants has been arrived at behind their back in violation of natural principle of "audi alteram partem." (State of Punjab v. Iqbal Singh 1976(1)SIR 525 referred to).

Since in para 2511(a) of the I.R.E.W. it has been specifically laid down that such persons initially recruited as temporary labourers who have been retained for more than 6 months are entitled to benefits of Discipline and Appeal Rules, any deprivation of the right goes to the root of the matter and as observed by Ahmedabad Bench of C.A.T. in Sushil Kumar Mata Prasad Tiwari and others v. Union of India, (1987)(ATIT 545, and such order can't be upheld. ATR 1987(2)CAT 218 and ATR 1987(2)CAT 162 also referred to).

We also observe that no retrenchment compensation has been paid to the applicants so requirement of section 25-F of the Industrial Dispute Act 1947 has not been followed, despite clear direction to the contrary contained in para 2514 of the I.R.E.W. The termination of service of the applicant is illegal as held in Kartik Chand Banerjee ATR 1987(2)CAT 218.

Applications were allowed and impugned orders/ notices were set aside. Applicants were ordered to be re-instated within a month but with no wages till re-instatement if they have not performed duty during that period with a further liberty to the respondents to initiate departmental proceedings under the D.A. Rules for any alleged misconduct.

For the Petitioner - Shri P.S.Nair, Advocate  
For the Respondent - Shri S.P.Sinha, Advocate.

#### JUDGMENT

Above mentioned applicants moved different applications under sec.19 of the Administrative Tribunal Act 1985 on different dates. Since their grievance is based on one and the same letter No.P.271/4/EG dated 21.11.86 issued by the Divisional Railway Manager, Central Railway, Jhansi. We dispose these applications by this common Judgement.

2. All these applicants have challenged the validity of various orders either removing them from service or threatened to do so on the I.R.E.W's letter dated 21.11.86. It is not disputed that the impugned order or notices refer to a misconduct on the part of each applicant that he mis-represented by producing forged Casual Labour Card to secure employment with the respondents and that is why he is being or has been removed from service.

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## CENTRAL ADMINISTRATIVE TRIBUNAL

JABALPUR

INDIA

Hon'ble Shri S.K.S.Chib, Vice-Chairman

Hon'ble Shri K.B.Khare, Member(J)

O.A.No.189,197 and 204 of 1986 and

O.A.No.11,14,17,32 and 70 of 1987

Decided on 14.9.1987

Bardyal and 11 others,etc,etc. - Petitioners

Union of India and others - Respondents

## Removal from Service-

Indian Railway Establishment Manual-para 2501, 2511, 2514-Industrial Disputes Act,Section 25F-  
Retrenchment compensation-Casual Labour having put in service for more than six months continuously-  
Removal from service on allegation of procuring employment on forged casual labour cards without following the procedure under Railway Servants(Discipline and Appeal)Rules,1953 and without payment of retrenchment compensation under section 25-7 of Industrial Disputes Act-Petitioners acquired temporary status. Orders of removal if sustainable.

## Held:

It is apparent from the averments in the application that all the applicants were initially recruited as Casual labour. They worked with the respondents during various periods. Then, the impugned orders/notices were issued they were in service and they had performed same work for which they were engaged and they had put in more than six months,without break continuously in the service there. Consequently as observed by the Hon'ble Supreme Court in Roberts D'sauza,1982 SC 854 and Inder Pal Yadav,1985(2)SCC 854 and stated in the Indian Railway Establishment Manual,they had acquired status of temporary railway servants, and as such they became entitled to rights and privileges laid down in para 2511 read with Chapter XXIII of the Manual,as is evident from sub-para(a) of para 2511. The rights and privileges admissible to such temporary railway servants would also come within purview of 'Discipline and Appeal' Rules.

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"Staff paid from contingencies except those retained for more than six months continuously:

Such of those persons who continue to do the same work for which they were engaged or other work of the same type for more than six months without a break will be treated as temporary after the expiry of the six months of continuous employment."

Such persons are entitled to rights and privileges laid down in para 2511 read with Chapter XCII of the Manual, as is evident from sub-para (a) of para 2511. The rights and privileges admissible to such temporary railway servants would also come within purview of "Discipline and Appeal" Rules.

C. A plain reading of the impugned order or notice indicates a positive stigma on the applicants of obtaining employment by mis-representing and producing forged casual Labour Cards. Thus a finding of misconduct on the part of the applicants has been arrived at behind their back in violation of the natural principle of "audi alteram partem." Their lordships of the Supreme Court in para 4 of the decision in State of ~~Rajasthan~~ Punjab v. Iqbal Singh, 1976(1)SIR 525 have observed:

"With the proliferation of administrative decision in the welfare state it is now further recognised by courts both in England and in this Country, especially after the decision of House of Lords in Ridge v. Baldwin, 7(1964)AC 40 that where a body or authority is characteristically administrative the principle of natural justice is also liable to be invoked if the decision of that body or authority affects, individual rights or interests, and having regard to the particular situation it would be unfair for the body or authority not to have allowed a reasonable opportunity to be heard."

And therefore the finding should not and could not be used against the applicants who were initially recruited as casual workers but have since acquired the status of temporary railway servants as stated in preceding paragraph subject to the provisions of Railway Servants (D&A) Rules 1968.

Since in para 2511 (a) of I.R.E.M. it has been specifically laid down that such persons initially recruited as temporary labourers who have been retained for more than six months are entitled to benefits of Discipline and Appeal Rules, any deprivation of the right goes to the root of the matter and as observed in the following terms by learned Ahmedabad Bench of C.A.T., in Sushil Kumar Mata Prasad Tewari and others v. Union of India, 1(1987)ATLT 546, and such orders cannot be upheld.

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All the applicants claim that they are or were in continuous employment with the respondents in the Central Railway for various period, which in each case exceeds six months and hence their service could not be terminated without following the Railway Servants Discipline and Appeal Rules 1968 or applying the natural principle of "audi alteram partem" i.e. giving them a chance to explain their stand. Therefore, they pray that the orders terminating their service or threatening action should be quashed and those who have been removed from service should be reinstated.

3. Respondents assert that there is mis-joinder of causes of action and parties because by different orders different type of action is proposed against these applicants. They further state that casual labourers like the applicants do not come within the purview of these Discipline and Appeal Rules 1968 and hence it is not necessary to follow these rules in the case of these casual labourers. All these applicants have secured employment by mis-representation based on forged 'Casual Labour Cards'. Hence, the action

4. We have heard Sri P.S.Nair learned counsel for all the applicants and Sri S.P.Sinha learned Standing Counsel for the respondents before us. We have looked into the affidavits, counter affidavits and documents produced.

The plea of mis-joinder of causes of action and parties loses its importance, because all the applicants are employed in Central Railway and their services are being terminated under direction of the Divisional Railway Manager Jhansi contained in r-271/4/NG dated 21.11.1986.

5. It is apparent from the averments in the applications that all the applicants were initially recruited as casual labour. They worked with the respondents during various periods. When the impugned notices/orders were issued they were in service and they had performed same work for which they were engaged and they had put in more than six months, without break continuously in the service there. Consequently as observed by the Hon'ble Supreme Court in -

(1) Robberts D'Sauza v. Executive Engineer  
S.Railway, AIR 1982 SC 854.

(2) Inder Pal Yadav and others v. Union of  
India, 1985 (2) SCC 648.

and stated in the Indian Establishment Railway Manual, they had acquired status of temporary Railway Servants, Sub-para(b) (i) of para 2501 of Indian Railway Establishment Manual (2nd Edition) states:-

elent  
27/14/1986

"Thus it is against all canons of justice, equity and fairplay to find an employee guilty of the charges without following departmental proceedings and giving reasonable opportunity to defend himself.)

Similar issues arose in *Union of India v. Kartik Chand Banerjee*, ATR 1987(2)CAT 218 and *Shri Raj Singh v. Union of India*, ATR 1987(2)CAT 163 and have been decided similarly.

7. We also observe that no retrenchment compensation has been paid to the applicants; so requirements of sec. 25F of the Industrial Dispute Act 1947 has not been followed, despite clear direction to the contrary contained in para 2514 of the Indian Railway Establishment Manual. Hence termination of service of the applicants is illegal as held in the case of *Kartik Chand Banerjee (Supra)*.

8. In the net result these applications are being allowed. The impugned orders/ notices leading to termination of the service of the applicants are set aside. Applicants who were earlier in service are hereby declared to be continuing in service of the respondents. Respondents are directed to reinstate within one month of this order those applicants who have been removed from service to their former posts where they were posted prior to the impugned order, but they would not get wages from the day of removal till reinstatement if they have not performed duty during the period. It is open for the respondents to initiate departmental disciplinary action against any of the petitioners under the Railway Servants(Discipline and Appeal) Rules 1908 for any alleged misconduct.

Parties are to bear their own costs.

dated  
27/11/04

T/C  
2 Day

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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CENTRAL ADMINISTRATIVE TRIBUNAL : HYDERABAD BENCH

AT HYDERABAD

C.A. No. 118/91

Dt. of decision: 4-10-93.

Between:

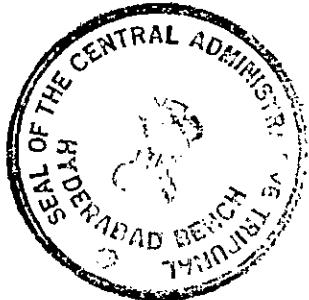
R. Nageswara Rao

.. 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. Chief Project Manager,  
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. A.B. Gorthi, Member (Administration)

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

Judgement

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 his mother was seriously ill. When he proceeded to

..2

Recd. 10.11.93 Sl. No. 1208  
Date 10.11.93

10.11.93

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 <sup>as</sup> a casual labour. Under these circumstances, the applicant would be allowed to count the entire period of <sup>past</sup> service from the date 6-12-80 to 11-5-86 <sup>for all purposes</sup>. 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~~ within a period of three months from the date of communication of this order.

Order CERTIFIED TO BE TRUE COPY

Ms. No. (A)

Date..... *11/11/1991*  
 Court Officer  
 Central Administrative Tribunal X/3  
 Hyderabad Bench  
 Hyderabad

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 <sup>KMV</sup>, 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

Case Number	6/118/91
Date of Judgement	14/10/93
Copy made ready	14/10/93

*Sanctor (S)*

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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 <sup>of</sup> ~~on~~ 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 <sup>has been</sup> reiterated in a number of judgements of this Tribunal and there is no need to make reference to all of them. In this case, admittedly the applicant acquired 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.

5. The applicant did not perform duty from the date 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 <sup>press</sup> not stress for wages for the said period. There could

202 25/7/04

CENTRAL ADMINISTRATIVE TRIBUNAL  
HYDERABAD BENCH

Date : 2 Feb 1994

To O.A. Regd. No. 200 / 94  
Mr. N. R. Dwarey  
Sir, SC for My.

I am to request you to rectify the defects mentioned below in your application within 14 days from the date of issue of this letter; failing which your application will not be registered and action Under Rule 5 (4) will follow.

1. Court fee stamp worth Rs. 5/- should be affixed to the Application.
2. Material Papers should be attested by the Counsel.
3. Section should be furnished in Part - I.
4. Chronological Statement of events should be filed.
5. One copy of OA should be filed.

Sir,

There is no spare copy and it is very expensive to supply one now. I will endeavor to furnish in due course. Please do so.

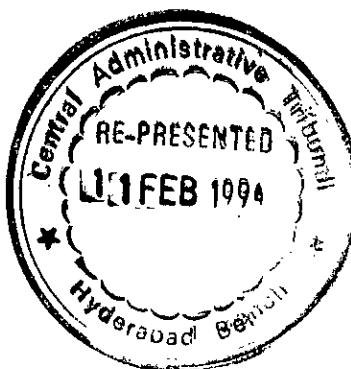
N. R. Dwarey  
11/2/94.



10 Objections Complied with  
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11/2  
for R. Dwarey  
SC for My

Ans. Regd.  
Deputy Registrar



64

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH AT HYDERABAD

O.A.NO. 172/94.

Date of Order: 24-2-94.

Between:

1. The Chief Signal & Telecommunication Engineer (Signal), Railway Electrification, vijayawada (rep. by Dy. Chief Signal & Telecommunication Engineer, vijayawada)
2. Union of India rep. by General Manager, Central Organisation for Railway Electrification, Allahabad U.P.
3. Deputy Chief Signal & Telecommunication Engineer (Signals), Rly. Electrification, Secunderabad not at vijayawada

.. Applicants.

and

1. Sri Rekha Srihari, Casual Khalasi, through Asst. Signal & Telecommunication Engineer, Railway Electrification, Secunderabad.
2. Presiding Officer, Labour Court, Guntur, A.P.

.. Respondents.

For the Applicants: Mr. N. R. Devraj, SC for Rlys.

For the Respondents: ..

CORAM:

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

THE HON'BLE MR. R. RANGARAJAN : MEMBER(ADMN)

The Tribunal made the following Order:-

- Notice before admission.

The impugned order is suspended until further orders. Post on 6-4-1994, for reply in the meanwhile.

*Ar Ray*  
25/2/94  
Deputy Registrar (J) C.C.

To

1. The Chief Signal & Telecommunication Engineer (Signal) Railway Electrification, vijayawada (rep. by Dy. Chief Signal & Telecommunication Engineer, vijayawada).
2. The General Manager, Union of India, Central Organisation for Railway Electrification, Allahabad U.P.
3. The Deputy Chief Signal & Telecommunication Engineer (Signals) Railway Electrification, Secunderabad now at vijayawada.
4. The Presiding Officer, Labour Court, Guntur A.P.
5. One copy to Rekha Srihari, Casual Khalasi, through Asst. Signal and Telecommunication Engineer, Rly Electrification, Sec'bad.
6. One copy to N. R. Devraj, SC for Rlys, CAT. Hyd.
7. One spare copy.

pvm

*P. V. M.*  
25/2/94

TYPED BY

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

AND

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

AND

THE HON'BLE MR. R. RANGARAJAN : MEMBER  
(ADMN)

Dated: 24-2-1994.

ORDER/JUDGMENT.

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

in

C.A.No. 172/94.

T.A.No.

(W.P.No. )

Admitted and Interim Directions  
issued.

Allowed.

Disposed of with directions.

Dismissed.

Dismissed as withdrawn.

Central Administrative Tribunal

Dismissed for Default.

Rejected/Ordered, MAR 1994

No order as to costs.

pvm

No. 2/94 (COP)

66

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL: HYDERABAD BENCH  
AT HYDERABAD

M.A. No. 2 of 1994

in  
O.A. No. 172 of 1994

Between:

(1) Presiding Officer, Labour Court, Guntur  
2. The Chief Signal & Telecommunication  
Engineer, Railway Electrification  
Vijayawada (represented by Dy. Chief,  
S&T Engineer (RE), Vijayawada  
(2) and 2 Others (1) ~~regarding~~ General Name of Applicants  
Contract organisation for the Electrification Project  
A N D (2) Dy. Chief, S&T Engg & Tele Comm Signal Engg  
1. Rekha Sri Hari ~~Railways Electrification~~  
Casual Khalasi through ~~Vijayawada~~  
Divisional Engineer, Railway ~~Electrification~~  
Secunderabad.

2. Presiding Officer  
Labour Court  
Guntur, A.P.

... Respondents

MISC. APPLICATION TO VACATE STAK UNDER RULE 8 OF THE  
CENTRAL ADMINISTRATIVE TRIBUNAL PROCEDURE RULES 1987 :

1. I, Rekha Srihari, S/o R.Venkateswarulu, Aged 25 years, working as Khalasi in the Railway Electrification Project in Signal and Telecommunication Department under the Divisional Engineer, Secunderabad, do hereby solemnly affirm and state as under:

2. I am the Respondent No.1 in the O.A. 172/94 filed by the Chief Signal and Telecommunication Engineer, Railways Electrification, Vijayawada and two others and well aware of the facts of the case as I was the Petitioner before the Hon'ble High Court of Andhra Pradesh and Labour Courts, Guntur and orders have been passed in my favour in both Forums.

Contd...2

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3. The present O.A. was filed against the orders of Hon'ble Labour Court, Guntur in CMP No. 29/88 passed on 6.12.1992 and this Hon'ble Tribunal suspended the impugned order on 24.2.1994 until further orders without hearing any of the respondents.

4. The averments made in the application are not correct and contrary to the law of the land except these that ~~xx~~ are specifically admitted herein.

5. The facts of the case are that I was originally engaged as a casual labour Khalasi on 21.6.1982 on daily rate of pay by the Divisional Signal and Telecom .Engineer, Railway electrification and posted to work under the Signal Inspector, RE, Kazipet. On completion of six months period I was sent for medical examination and found fit in group 'B' and granted monthly scale of pay as per rules and regularly working. All of a sudden DSTE(RE) Kazipet issued an order dated 21.12.1984 terminating my services with effect from 29.12.1984 even without a notice or any DAR action etc. Against the ~~section~~ <sup>action</sup> of DSTE(RE) Kazipet I filed a Writ Petition No. 475/85 in the Hon'ble High Court of Andhra Pradesh as the termination of my service was illegal arbitrary and unconstitutional. The Writ petition was allowed ~~xx~~ by ~~xx~~ an order dated 13.3.1985 and the termination order was quashed with a direction to the respondent for taking fresh <sup>as</sup> DAR action <sup>1</sup> may be warranted in the circumstances according to law. I was put back to duty and the DSTE(RE) Kazipet issued a charge sheet on 12.7.1985 and I submitted my detailed explanation denying the charges and no further action was taken. Again after lapse of six months the Dy.CSTE(RE) Secunderabad issued another chargesheet on 22.1.1986 which is identical and the same as that of DSTE(RE) Kazipet. I have submitted my explanation on 3.2.1986

denying the charges, without conducting any enquiry or giving me an opportunity to defend my case, my services were terminated by an order dated 30.5.1986, with no other way out than approaching the Hon'ble High Court of Andhra Pradesh for redressal of my grievance. I filed a Writ Petition No. 7789/86 against the illegal removal from service. The Hon'ble Court after hearing both sides pleased to allow the Writ Petition on 18.1.1988 quashing the orders of termination dated 30.5.1986 which is illegal and arbitrary as per orders of Hon'ble High Court.

I was taken to duty with effect from 27.5.1988 but was not paid the wages for the period from 31.5.86 to 26.5.88. I made a several representations to the authorities for payment of salary for the period from 31.5.86 to 26.5.88 during which I was out of service on account of the illegal action of the authorities.

5. I made representations to the authorities for payment of wages for the periods I was illegally terminated from services and thereby prevented me from performing duties. As the concerned authorities have failed to treat the period as duty and pay me wages according to law, I filed CMP 29/88 in the Hon'ble Labour Court at Guntur under section 33(c) of ID Act for payment of arrears of salary etc due to me from 31.5.86 to 26.5.88. The Hon'ble Labour Court, Guntur, after hearing both sides passed an order on 6.12.92 allowing the petition for payment of monthly wages, H.R.A., CCA, leave credit increment and all attendant benefits <sup>from</sup> for 31.5.86 to 26.5.88 to me within 2 months from the date of the order, failing which interest at the rate of 12 per cent per annum <sup>on</sup> the amount due till the date of payment. The respondents in the CMP No. 29/88 had failed to implement

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the order of Hon'ble Labour Court, Guntur till date and now filed a O.A. No. 172/94 in this Hon'ble Tribunal as applicants, praying to set aside the order dated 6.12.92 in CMP No. 29/88.

6. At the outset, the O.A. is not maintainable, as the order of the Labour Court, Guntur dated 6.12.92 to make payment within 2 months of the order was not implemented nor filed this O.A. within that period. There is a delay of more than 12 months in coming to this Hon'ble Tribunal.

7. In all cases of awards passed by the Labour Court the respondents who prefer appeal should be asked to deposit 50 per cent of the arrears, but in this case this Hon'ble Tribunal without hearing the respondents passed an ex parte order suspending the operation of the judgment of Labour Court.

8. The question of payment of arrears for the period from 31.5.86 to 26.5.88 is a sequel to the orders of High Court of Andhra Pradesh which was not challenged. The orders of High Court in Writ Petition 7789/86 have become final and the authorities have not gone on SLP on these orders, when the orders of removal have been set aside it consequently follows that the period of absence has to be treated as duty and wages have to be paid.

9. Railway rules are very clear and categorical that when orders of termination are quashed the employee is entitled for the back wages as he was prevented from working. The period should be treated as duty. No work - No pay rules will not apply in this case since the employee is available to work but was prevented to do the job by the illegal action of authorities. Hence the contention of the applicants in this O.A. No. 172/94 is contrary to law and baseless.

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(70)

10 The averments made in the application are irrelevant and do not apply in this case. The Railway Electrification is an organisation in Railways. The rules applicable for the general casual labour on the open line are applied and monthly scales of pay are granted on completion of six/four months to the casual labour. The fact that I was granted monthly scales of pay on completion of six months service proves that I am not a project casual labour and the judgment in Inderpal-Yadav case is not applicable to me while the project casual labour are to be granted monthly scales on completion of 360 days. Quoting this judgment is only to mislead the Hon'ble Tribunal.

11 The Hon'ble Labour Court, Guntur is correct in coming to the conclusion that petition lies under 33(C) (2) of I.D. Act as I am a workman under I.D. Act and eligible for payment of arrears of wages allowances, leave credit etc for the periods I was illegally prevented from work. The Labour Court observed that the Hon'ble High Court of A.P. was pleased to quash the said termination order on 18.1.1988.

i) The Labour Court observed that in view of the Writ Petition order, the respondents are liable to pay the said sum. Consequently on the High Court's quashing the termination orders, I am entitled to have the entire period of absence from 31.5.86 to 26.5.88 till date of reinstatement to be treated as duty and the arrears of pay and allowances etc. as the authorities failed to treat the period as duty and pay me the arrears, I filed CMP No. 29 /88 for recovery of wages which have become due to me as a result of High Court decision. The Hon'ble Labour Court having gone into the merits of the case directed the respondents to pay me arrears which is

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Contd.. 6

nothing but an implementation of the High Court's Orders.

The Labour Court has exercised its jurisdiction correctly and passed orders in my favour.

ii) I was removed from service without following the provisions under DAR rules and challenged the same in the High Court of Andhra Pradesh which was allowed and reinstated. Again a charge sheet was issued and removed from services without enquiry or following the procedure under DAR or giving an opportunity. On ~~enquiry~~ <sup>accusing</sup> ~~Temporary Status~~ ~~they state~~, Railway servant is entitled to the ~~protection~~ <sup>protection</sup> of Article 311 (2). I challenged the illegal removal through Writ Petition No. 7789/86 in the Hon'ble High Court of A.P. and the removal order was set aside.

iii) I have been prevented from performing duty from 31.5.86 to 26.5.88 under extant rules, when the removal orders are ~~set aside~~, ~~not~~ as duty and back ~~wages~~ wages paid.

iv) Since there was no response from the authorities I filed a CMP in Labour Court, Guntur which was allowed.

v ) The applicants have not brought any ground to deny the payment of back wages except No work - No pay which slogan is not applicable in my case as I was actually prevented from work by illegal order, though I was prepared and ready to work.

vi ) The applicants should have gone on appeal to Supreme Court on the orders of Hon'ble High Court of A.P. when my orders of termination was set aside. This was not done.

vii) The points brought out in the application are not sustainable as there were already pleaded before the Hon'ble High Court of Andhra Pradesh also and were rejected.

1. *Leucanthemum vulgare* L. (Lam.)

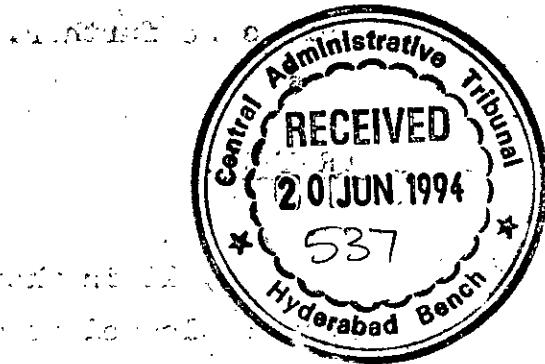
$$d\theta = \omega_1 \wedge \omega_2 \wedge \dots \wedge \omega_n \quad \text{and} \quad d\theta = \theta \wedge \omega_1 \wedge \omega_2 \wedge \dots \wedge \omega_n \quad (11)$$

32-2 "The following is a list of names of persons  
out of the city of Boston, who are to be  
admitted into the Boston Public Library."

For 3750 m of the eastern plateau the data are as follows:

For the above case, the following recommendations are made: **O-A No. 172/94**  
1. The concerned station should take action to detect such

Bevor wir es hier beenden und noch mehr Zeit haben,



Hyderabad

and the first four digits of  $\pi$  are 3.141592653589793.

（三）被指認的犯人與其親屬，應當在被指認後，即行釋放。

1920-21 20.5 miles off San Pedro  
1921 20 miles off San Pedro *Field's Deep*

and the following is a copy of the original document.

W.L. Kerapne

but it is not a very good one, and it is not a good one.

1880-1881

may be filed  
on  
20/6/94.

72

viii) The Hon'ble Labour Court, Guntur is correct in its decision that the entire case is bound by the order of High Court of Andhra Pradesh.

ix) When the illegal termination orders are set aside by the competent Court, the authorities are bound to treat the period as duty and payment has to be made for the period I was out of service on account of illegal and arbitrary action of the authorities. There are several judgments of various courts in ~~my~~ my favour.

x ) When the ~~Hon'~~ Hon'ble Labour Court has ordered ~~to make payment~~ delayed and to gain time, this application was filed to harass me further.

PRAYER :

a) It is therefore prayed that this Hon'ble Tribunal may be pleased to dismiss the O.A. with costs as I have unnecessarily been put to hardship and harassment by the applicant without any valid justification.

Interim Prayer

b) Pending disposal of the O.A. I pray that this Hon'ble Tribunal may be pleased to vacate the interim orders passed on 24.2.94 suspending the operation of Labour Court judgment as I am put to irreparable damage in that I have been deprived of my legitimate right to wages for the period I was not permitted to perform duty

Solemnly affirmed and signed  
this 6th Day of June, 1994.

Before me  
A D V O C A T E

Deponent  
Advocate for Plaintiff

CENTRAL ADMINISTRATIVE TRIBUNAL HYDERABAD BENCH

~~A.H.A./C.R.~~ NO. 42/94

ORIGINAL APPLICATION NO. 172/94 OF 199

TRANSFER APPLICATION NO.

OLD PETN. NO.

CERTIFICATE

Certified that no further action is required to be taken  
and the case is fit for consignment to the Record Room (Decided)

Dated: 30/7/96

Counter Signed



Section Officer/Court Officer  
pvn



Signature of the Dealing  
Assistant.

(FS)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

\*\*  
M.A.No.No.421/94 with O.A.172/94.

Date: July 19, 1996.

Between:

1. The Chief Signal & Telecommunication Engineer (Signal), Railway Electrification, Vijayawada (rep. by Dy. Chief Signal & Telecommunication Engineer, Vijayawada).
2. Union of India represented by General Manager, Central Organisation for Railway Electrification, Allahabad, U.P.
3. Dy. Chief Signal & Telecommunication, Engineer (Signals), Railway Electrification, Secunderabad now at Vijayawada.

Applicants in O.A.  
Respondents in M.A.

And

1. Sri Rekha Srihari.
2. Presiding Officer, Labour Court, Guntur, A.P.

Respondents in O.A.  
Applicants in M.A.

Counsel for the Applicants in O.A.

Sri N.R.Devraj, Counsel  
for the Applicants in O.A.

Counsel for the Respondents in O.A.

Sri G.V.Subba Rao.

CORAM:

HON'BLE SHRI JUSTICE M.G.CHAUDHARI, Vice-Chairman. *full*

HON'BLE SHRI H.RAJENDRA PRASADA, Member (A) *9/6/96*

guru

122421 172  
M.A.428/94 with O.A.399/94.

Date: July 19, 1996.

ORDER.

(AS PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN)

--

Mr. G.V.Subba Rao for the applicant.

Mr. N.R.Devraj, Senior Standing counsel for the Respondents.

M A 421 | 94

The M.A., is for vacating the interim orders passed in the O.A., on 24--2--1994. At the hearing of the M.A., it is transpired that the O.A., itself may have to be dismissed on the ground of lack of jurisdiction. Both the learned counsel submitted that the O.A., itself may be disposed of. Hence no Order on M.A. It is disposed of.

Order on O.A.399/94. 172/94.

By consent heard and taken up for final disposal.

The O.A., has been filed by the Union of India and two others representing the Central Organisation for Railway Electrification through its Authorities challenging the legality and correctness of the Award passed by the Presiding Officer, Labour Court, Guntur dated 6--12--1992 in C.M.P.No. 29/98 allowing the claim of the present respondent (Applicant in Labour Court) for payment of monthly wages and other attendant claims and benefits for the period indicated in the Award.

hsl

(75)

The dispute was entertained by the Labour Court under Sec.33-C(2) of the Industrial Disputes Act.

The claim was contested by the official respondents who are the present applicants. They are aggrieved by the said Award. They pray in the O.A., that the said Award dated 6.12.92 may be quashed and set aside on the grounds pleaded in the O.A.

2. The applicants have stated that this Tribunal has got jurisdiction to entertain the O.A., under Sec.14(1)(b)(ii) of Administrative Tribunals Act, 1985.

3. The learned counsel for the respondents, Mr. G.V.Subba Rao now submits that in view of the decisions of the Hon'ble Supreme Court in the cases of KISHAN PRASAD GUPTA Vs. CONTROLLER, PRINTING AND STATIONERY ( 1966 (1) SCC 69 and in Sh.SURAJ RAM Vs.UNION OF INDIA (Civil Appeal No.3370/96 dated 12-2-1996) the O.A., is liable to be dismissed for want of jurisdiction ~~max~~ in the Tribunal to proceed with the same. The learned counsel submitted that although this contention has not been raised in the counter, it is open to urge for dismissal of the O.A., in view of the law laid down by the Hon'ble Supreme Court and since the question touches the very jurisdiction of the Tribunal to entertain the O.A.

JMK

4. Having regard to the above judgments of the Hon'ble Supreme Court we are inclined to accept the submission of Mr. G.V.Subba Rao.

5. Mr. N.R.Devraj, learned Standing Counsel for the respondents, however, sought to urge that even though the applicants would not contend that the Labour Court had no jurisdiction to entertain the dispute since that jurisdiction has been excluded under the Administrative Tribunals Act <sup>but</sup> as there is no Appellate Authority provided under the Industrial Disputes Act to challenge the Award made under Section 33-C(2), the only remedy available to the applicants being in the nature of a writ petition which the applicants could not avail in the High Court as exclusive jurisdiction in service matters is conferred upon the Tribunal under the Administrative Tribunals Act and inasmuch as the claim of the respondents relates to service conditions, the jurisdiction of the Tribunal is intact. Consequently, the learned counsel submitted that the Tribunal has jurisdiction to proceed with the D.A. on merits.

6. The argument advanced by Mr. Devraj could have merited scrutiny but the question is no longer res integra in view of the subsequent decision of the Supreme Court in SURAJ RAM's case(supra). The facts in the instant case are peri materia with the facts that arose in that case. In that case, the Labour Court had made an Award for payment to the disputant the

77

the amount as specified towards part of unpaid wages.

That Award was challenged before the Central Administrative Tribunal which had allowed that O.A.

That has been set aside by the Supreme Court observing that as held in the case of KRISHAN PRASAD GUPTA

the Central Administrative Tribunal has no jurisdiction

to entertain the Application under Section 19-B of

the Administrative Tribunals Act 1985 against an

award/which order of the Labour Court. On that

view of the matter, the order of the Tribunal has

been set aside. In the instant case, the award

has also been passed by the Labour Court for

similar claim and clearly the jurisdiction of the

Tribunal to entertain the O.A. against that award

does not exist. We do not therefore think that it

is possible to accept the submission made by Mr. Deyraj

7. We are therefore, held that the O.A., ~~is~~ has been

filed under a mis-conception that the Tribunal has

jurisdiction to entertain the same. We, however,

hold that the Tribunal has no jurisdiction to deal

with the O.A. although it has been entertained. As

a consequence the O.A., is required to be dismissed

for want of jurisdiction in the Tribunal to deal with

the same.

Hence the following Order:

*Well* The O.A., is dismissed

78

: 6 :

for want of jurisdiction in the Central Administrative  
Tribunal to deal with the same. The interim order  
is vacated. No order as to costs.

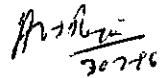
  
M. RAJENDRA PRASAD,

Member (A)

  
M.G. CHAUDHARI, J  
Vice-Chairman.

Date: July 19, 1996

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Dictated in open Court.

  
M.G. Chaudhary  
30/7/96  
On OI.

SSS.

M.A. 421/94 O.A.172/94.

To

1. The Chief Signal and Telecommunication Engineer (Signal), Railway Electrification, Vijayawada, (rep. by Deputy Chief Signal and Telecommunication Engineer, Vijayawada).
2. The General Manager, Union of India, Central Organisation for Railway Electrification, Allahabad, U.P.
3. The Engineer(Signals) Railway Telecommunication, Secunderabad now at Vijayawada.
4. One copy to Mr.G.V.Subba Rao, Advocate, CAT.Hyd.
5. One copy to Mr.N.R.Devraj, SC for Rlys CAT.Hyd.
6. One copy to Library, CAT.Hyd.
7. One spare copy.

pvm.

16/8/96  
I COURT

TYPED BY

CHECKED BY

COMPARED BY

APPROVED BY

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

HYDERABAD BENCH AT HYDERABAD

THE HON'BLE MR.JUSTICE M.G.CHAUDHARI  
VICE-CHAIRMAN

AND

THE HON'BLE MR.H.RAJENDRA PRASAD:M(A)

Dated: 19-7-1996

ORDER/JUDGMENT

M.A./R. A.No. 621/96

in

O.A.No. 595/96 172/96

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

Admitted and Interim Directions  
issued.

Allowed.

Disposed of with directions

Dismissed

Dismissed as withdrawn

Dismissed for Default.

Ordered/Rejected.

No order as to costs.

pvm

केन्द्रीय प्रशासनिक विधिकरण  
Central Administrative Tribunal  
DESPATCH

12 AUG 1996

हैदराबाद न्यायपीठ  
HYDERABAD BENCH

Date: July 19, 1996.

O R D E R.

(AS PER HON'BLE SHRI JUSTICE M.G.CHAUDHARI, VICE-CHAIRMAN)

Mr. G.V.Subba Rao for the applicant.

Mr. N.R.Devraj, Senior Standing counsel for the Respondents.

M.A.428/94

The M.A., is for vacating the interim orders passed in the O.A., on 24-2-1994. At the hearing of the M.A., it was transpired that the O.A., itself may have to be dismissed on the ground of lack of jurisdiction. Both the learned counsel submitted that the O.A., itself may be disposed of. Hence no Order on M.A. is disposed of.

172/94  
Order on O.A.499/94.

By consent heard and taken up for final disposal.

The O.A., has been filed by the Union of India and two others representing the Central Organisation for Railway Electrification through its Authority challenging the legality and correctness of the Award passed by the Presiding Officer, Labour Court, Guntur dated 12-12-1992 in C.M.P.No. 29/98 allowing the claim of the respondent (Applicant in Labour Court) for payment of monthly wages and other attendant claims and benefits for the period indicated in the Award.

Sub

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, HYDERABAD BENCH  
AT HYDERABAD.

M.A.No.No.421/94 with O.A.172/94.

Date: July 19, 1996.

Between:

1. The Chief Signal & Telecommunication Engineer (Signal), Railway Electrification, Vijayawada (rep. by Dy. Chief Signal & Telecommunication Engineer, Vijayawada).
2. Union of India represented by General Manager, Central Organisation for Railway Electrification, Allahabad, U.P.
3. Dy. Chief Signal & Telecommunication, Engineer (Signals), Railway Electrification, Secunderabad now at Vijayawada.

Applicants in O.A.  
Respondents in M.A.

And

1. Sri Rekha Srihari.
2. Presiding Officer, Labour Court, Guntur, A.P.

Respondents in O.A.  
Applicants in M.A.

Counsel for the Applicants in O.A.

Sri N.R.Devraj, Counsel  
for the Applicants in O.A.

Counsel for the Respondents in O.A.

Sri G.V.Subba Rao.

CORAM:

HON'BLE SHRI JUSTICE M.G.CHAUDHARI, Vice-Chairman.

HON'BLE SHRI H.RAJENDRA PRASADA, Member (A)

4. Having regard to the above judgments of the Hon'ble Supreme Court we are inclined to accept the submission of Mr. G.V. Subba Rao.

5. Mr. N.R. Devraj, learned Standing Counsel for the respondents, however, sought to urge that even though the applicants would not contend that the Labour Court had no jurisdiction to entertain the dispute since that jurisdiction has been excluded under the Administrative Tribunals Act as there is no Appellate Authority provided under the Industrial Disputes Act to challenge the Award made under Section 33-C(2), the only remedy available to the applicants being in the nature of a writ petition which the applicants could not avail in the High Court as exclusive jurisdiction in service matters is conferred upon the Tribunal under the Administrative Tribunals Act and inasmuch as the claim of the respondents relates to service conditions, the jurisdiction of the Tribunal is intact. Consequently, the learned counsel submitted that the Tribunal has jurisdiction to proceed with the D.A. on merits.

6. The argument advanced by Mr. Devraj could have merited scrutiny but the question is no longer res integra in view of the subsequent decision of the Supreme Court in SURAJ RAM's case(supra). The facts in the instant case are pari materia with the facts that arose in that case. In that case, the Labour Court had made an Award for payment to the disputant the

The dispute was entertained by the Labour Court under Sec.33-C(2) of the Industrial Disputes Act. The claim was contested by the official respondents who are the present applicants. They are aggrieved by the said Award. They pray in the O.A., that the said Award dated 6.12.92 may be quashed and set aside on the grounds pleaded in the O.A.

2. The applicants have stated that this Tribunal has got jurisdiction to entertain the O.A., under Sec.14(1)(b)(ii) of Administrative Tribunals Act,1985.

3. The learned counsel for the respondents, Mr. G.V.Subba Rao now submits that in view of the decisions of the Hon'ble Supreme Court in the cases of KISHAN PRASAD GUPTA Vs. CONTROLLER, PRINTING AND STATIONERY ( 1966 (1) SCC 69 and in Sh.SURAJ RAM Vs.UNION OF INDIA (Civil Appeal No.3370/96 dated 12-2-1996) the O.A., is liable to be dismissed for want of jurisdiction under in the Tribunal to proceed with the same. The learned counsel submitted that although this contention has not been raised in the counter, it is open to urge for dismissal of the O.A., in view of the law laid down by the Hon'ble Supreme Court and since the question touches the very jurisdiction of the Tribunal to entertain the O.A.

*Subba*

: 6 :

For want of jurisdiction in the Central Administrative  
Tribunal to deal with the same. The interim order  
is vacated. No order on 4/7/96.

प्रमाणित प्रति  
CERTIFIED TO BE TRUE COPY  
*J. S. Rao*  
सायर्स अधिकारी  
COURT OFFICER  
केन्द्रीय राजनीतिक अधिकारण  
Central Administrative Tribunal  
हैदराबाद न्यायालय  
HYDERABAD BENCH

11876

SSS.

मा. 421794

केस संख्या	0.A.172/94
CASE NUMBER	0.A.172/94
नियंत्रण का दारीय	19.7.96
Date of Judgment	19.7.96
प्रति सत्याकाश का ददा दिन	9.8.96
Copy Made Rec'd by	9.8.96

*[Signature]*  
अधिकारी (संसदीय अधिकारी)  
Court Officer (J)

the amount as specified towards part of unpaid wages.

That Award was challenged before the Central Administrative Tribunal which had allowed that O.A.

That has been set aside by the Supreme Court observing that as held in the case of KRISHAN PRASAD GUPTA

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Hence the following Order:

*W.L.* The O.A., is dismissed