

SUPREME COURT OF INDIA

Ramesh Kumar

Vs.

Union of India

C.A.No.14581 of 1996

(K. Ramaswamy and G. B. Pattanaik JJ.)

28.10.1996

ORDER

1. Leave granted.
2. We have heard learned counsel on both sides.
3. This appeal by special leave arises against the order of the Central Administrative Tribunal, New Delhi made on 17-5-1990 in O. A . No. 1201/87.
4. The primary contention of the appellant which prima facie appeals us is that since the appellant was a casual worker and had attained the temporary status, throwing him out of service while his junior was retained, is an arbitrary action. We gave notice to the respondents by order dated April 30, 1996 directing them to explain as under :

" Learned counsel for the petitioner pointed out Annexure AA to the SLP paper book and stated that the petitioner was engaged as Choukidar on January 13, 1986 and he was conferred temporary status on January 8, 1967. One Rohtas Kumar son of Ganpat Ram was also engaged as Choukidar with effect from February 28, 1986 and he was conferred temporary status on February 23, 1987 and both of them have been given medical fit under Category C.I. It is also stated that Rohtas Kumar had already been regularised after the schemes was wound up while the petitioner being the senior was entitled for regularisation or posting elsewhere."

5. Pursuant thereto, an affidavit has been filed by Mr. Ved Prakash, Divisional Personnel Officer of the Northern Railway, New Delhi, in Paragraph 7 at Page 44 it is stated is under :

"In reply to paragraph 4(c) I say that Central Organisation for Operations and Information System is separate and distinct entity from Northern Railways. In view of Annexure-'A' the applicant's services come to an end on 10-9-1987 on account of winding up of the organisation. It is submitted that most of the staff was absorbed by the centre for Railway Information System (CRIS). A list of 20 Casual Labours who could not be absorbed under Respondent No. 4, was forwarded to the Chief Engineer Construction Northern Railway Kashmere Gate Delhi by COIS for re-engagement provided there was requirement for work.. It is respectfully submitted that about seven casual labours, including Shri Rohtas Kumar s/o Shri Ganpat Ram were spared as per requirement and accordingly they were offered appointment by the construction department. It is further submitted that after winding up the organisation, the applications from the willing staff were invited by the respondent No. 4 if they wanted appointment in center for Information system. It appears that the petitioner never applied for appointment and as such he was not considered for appointment."

6. The Central Organisation for Operations and Information System is separate and distinct entity from Northern Railways. In view of Annexure- 'A', the applicant's services came to an end on 10-9-1987 on account of winding up if the said organisation. However, 20 casual workers were directed to be absorbed at different places. It was stated that though opportunity was given to all the persons to make an application for absorption, since the appellat had not opted for appointment, he was not considered for appointment. In view of the fact that he was given an opportunity but he had not availed of the same, the question of discrimination does not arise; nor the question of appointment of the junior and denial thereafter to the appellat does not arise.

7. The appeal is accordingly dismissed. No costs.

Appeal dismissed.