
(1996) 08 SC CK 0138

In the Supreme Court Of India

Case No : Special Leave Petition (C) No. 15896 of 1996

Ram Lal

APPELLANT

Vs

Union of India

RESPONDENT

Date of Decision : 21-08-1996

Acts Referred:

Citation : (1996) 6 AD 791 : (1996) AIRSCW 3838 : (1997) 10 JT 482 : (1997) 1 LLJ 329 : (1996) 6 SCALE 271 : (1996) 10 SCC 164 : (1996) 5 SCR 27 Supp : (1996) 3 SLJ 123 : (1996) 6 Supreme 616

Hon'ble Judges : K. Ramaswamy, J;G. B. Pattanaik, J

Bench : Division Bench

Advocate : K.B. Sinha, Anil K. Jha, Rajeev K. Singh and T. Ray, for the Appellant;

Final Decision : Dismissed

Judgement

1. This SLP is filed against the order dated August 4, 1983 of the Central Administrative Tribunal, Calcutta Bench made in O.A. No. 747/1987. The admitted position is that the petitioner was appointed on ad hoc basis as a casual worker (khalasi) on August 1, 1962. He was terminated by an oral order on September 18, 1964. He challenged his termination by filing title suit No. 34/68/117 of 1967 in the Court of Learned Munsif, Asansol which was decreed; the order of termination was declared as illegal, void and inoperative and it came to be confirmed in appeal. Thereafter the petitioner was reinstated and the consequential benefits were given. He was, admittedly, reinstated on July 14, 1971. He is claiming the status of regular employee w.e.f. the initial date of his appointment on par with other candidates. It is not in dispute that as per Rule 3511 (C) of Indian Railway Establishment Manual, unless the candidate is sent before the Medical Board and selected by the regular selected committee, he has no right to the post. Obviously since the report of the medical examination was not found on record, he was asked to appear for medical examination in 1987 which medical test he had undergone. Subsequently, he came to be appointed on regular basis. But regular status was given to him w.e.f. September 14, 1971.

2. He filed the OA contending that he must be deemed to have been regularly appointed from the initial date of his appointment and that, therefore, he is entitled to all the consequential benefits. In the impugned order, the Tribunal was right in observing that unless the petitioner had undergone the medical test and was properly selected in order to be appointed on regular basis, he has no right to claim service benefits of a regular employee. The appointing authority has put him back to the regular status w.e.f. the date of his reinstatement in September 1971. It is sought to be contended that once he was appointed on regular basis, in view of the decision of the civil Court it must be deemed that he should have been continued in service from the beginning. We find no force in the contention. In support thereof, he placed reliance on the judgment of this Court in Devendra Pratap Narain Rai Sharma Vs. State of Uttar Pradesh, . The said ratio has no application to the facts in this case. In that case the incumbent was a regular employee and the dismissal from service was declared invalid. He was deemed to have been continued in service and, therefore, he was entitled to the consequential benefits from his initial appointment.

3. At the time of termination, the petitioner was ad hoc employee with temporary status and he was put back into the status on his reinstatement. When he was medically examined he was appointed from the date of his reinstatement. In fact, they have done justice to him. Had it been a case of regular appointment, he could not be put back into the status from the date of his initial appointment according to the rules. He is entitled to the permanent status after reinstatement. That status was given to him. Accordingly, we do not find any illegality in the order passed by the Tribunal. However, by operation of Rule 3511(C) of IREM, the petitioner is entitled to the pensionary benefits treating the temporary service as a qualifying service for pensionary benefits.

4. With these observation, the petition is dismissed.