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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH NEW DELHI

O.A. 1294/2001

New Delhi this the 11th day of January 2002.

Hon'ble Shri Govindan S. Tampi, Member (A)

Amit Kumar Bhardwaj, S/o Sh Bhagirath Prasad,
C-23, Khazan Basti,
Nangal Raya, New Delhi

.....Applicant

(by Shri U. Shrivastava, Advocate)

VERSUS

1. Govt of NCT of Delhi
through Chief Secretary of Delhi,
5 Sham Nath Marg, Delhi
2. The Director of Vigilance,
Dte. of Vig. Old Sectt, Delhi
3. Director of Employment,
Govt of NCT of Delhi,
2 Battery Lane, Delhi

.....Respondents.

(By Shri Ajesh Luthra, Advocate)


O R D E R (ORAL)

Heard S/Shri U. Shrivastava and Ajesh Luthra
learned counsel for the applicant and respondents
respectively.

2. In this case the relief sought by the
applicant are issuance of directions to the Director
of Vigilance to decide the case pending before him
and to order the reinstatement in service of the
applicant with all consequential benefits like
seniority without any break in service etc.

3. The applicant who had passed Class X, had
registered his name with the Employment Exchange . He
was called for interview for selection to the post of

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Peon before Board constituted of Joint Director (Employment), Directorate of Employment. On 26.6.1992 he was interviewed and selected for the post of Peon and accordingly appointed on 1.7.92. But suddenly on 26.5.93, the status of the appointment of the applicant was changed from that of regular nature to that of ad hoc and emergent nature subject to the final decision in the SLP 1611/1988 pending before the Hon'ble Supreme Court. On 4.8.94 services of applicant were terminated for the reasons that his appointment was made erroneous and is excess of the sanctioned strength of the Directorate of Employment." The said decision was illegal and arbitrary and deserved to be set aside, prays Sh. Srivastava, learned counsel for the applicant.

4. Rebutting the above, Shri Ajesh Luthra learned counsel for respondents indicates that a number of appointment including that of the applicant had been cancelled as being irregular. In a related matter in OA No.2096/94 Tribunal, had declined to interfere with the termination of large number of persons but had held that if at the time of conclusion of the investigations it ^{was} found that the appointment of applicants were not erroneous and vitiated, the respondents shall consider the resumption of their services. The investigation report which has been received clearly shows that the recruitments were irregular and improper. That being the case, the Tribunal's findings in the earlier OA has become final and the applicant's case should fail, *plead Sr Luthra.*

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5. I have considered the matter and I find that the appointment among others of applicant was incorrectly and improperly made and when the related matter was agitated before this Tribunal in OA No.2096/1994, it was decided that the applicant would have a case only if the investigation proves that the recruitment was proper. But now that the investigation report proves that the recruitment was erroneous the applicant cannot have any case. No right is created by any illegal action. Applicant cannot claim any protection in that regard. No legitimate right of his has been infringed.

6. OA, in the above circumstances, fails and is dismissed. No costs.


(Govindan S. Tampi)
Member (A)

Patwal/