

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA 1797/2001

New Delhi, this the 7th day of August, 2001.

Hon'ble Smt. Lakshmi Swaminathan, Vice-Chairman (J)
Hon'ble Shri Govindan S. Tampi, Member (A)

Vinod Kumar Kesri
R/o P-621, Sewa Nagar
New Delhi - 110 003.

...Applicant.

(By Advocate Shri H.C.Sharma)

V E R S U S

1. Union of India : Through
Director General of Audit
Post & Telecommunications
Govt. of India, Delhi - 54.
2. Secretary
Department of Personnel & Training
Ministry of Personnel, Pensions and Grievances
North Block
New Delhi - 110 001.

...Respondents

(None present)

O R D E R (ORAL)

BY HON'BLE SMT. LAKSHMI SWAMINATHAN, VICE-CHAIRMAN (J)

In this OA, the applicant's main grievance is that respondent No.1 has issued an Office Order dated 11-8-2000. By this order, it has been stated as follows :-

"Consequent upon having been declared as unfit for performing the duties of Group 'D' peon on medical grounds by the Medical Board of Dr. Ram Manohar Lohia Hospital, New Delhi. Shri Vinod Kumar Kesri, Group 'D' with 100 % 'Visual Disability' as per Medical Report is hereby retired w.e.f. 11-8-2000 (A/N) (11 August 2000) with three months pay and allowances. Shri Vinod Kumar Kesari will be entitled to pension/gratuity, for which he may be found eligible".

(3)

2.. Learned counsel for the applicant has submitted that the aforesaid order is illegal and arbitrary as the applicant was appointed in the first instance as group "D" Peon more than 20 years back by the respondents' Department under the category of disabled. He is 100 % blind in both eyes. Therefore, to declare him unfit for performing the duties of group "D" Peon on medical ground i.e. on account of 100 % visual disability is no ground especially after 20 years of service in that very capacity with the Department. He relies on an order of the Court of Chief Commissioner for Persons with Disabilities, dated 17-5-2001 (Annexure A-II) and the findings given by that Officer vis-a-vis the applicant. In para 15 of this order, that authority has opined that he is of the "firm opinion that a person who joined service against the post reserved for disabled cannot be dispensed from service on grounds of the same disability which he/she possesses at the time of entering Govt. service" (emphasis added). It has further been observed in the order that the respondents in the present case did not make any mistake by appointing the applicant on the post of Peon who was blind but on the other hand, observations had been made that the petitioner has remained productive and usefully occupied during the office hours. Learned counsel has submitted that a copy of this order has been submitted to the respondents together with the applicant's representation dated 28-5-2001 for respondents' consideration but no reply

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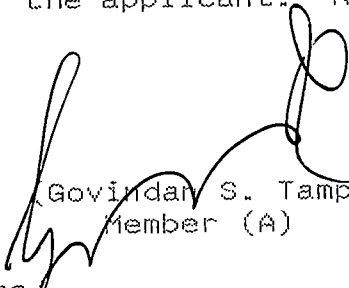
has been received till the date of filing the OA on 20-7-2001.

3. In the facts and circumstances of the case referred to above, we consider it appropriate to dispose of the OA with the following directions :-


(i) The respondents shall consider the representation made by the applicant together with the order dated 17-5-2001 passed by the Court of the Chief Commissioner for Persons with Disabilities under the provisions of the Persons with Disabilities, Equal Opportunities, Protection of Rights and Full Participation Act, 1999, and in accordance with relevant Rules and Instructions.

(ii) They shall, if necessary, also consider cancellation of the impugned order dated 11.8.2000 in the light of the aforesaid provisions. They shall pass a reasoned and speaking order on the same, after giving a reasonable opportunity of affording a personal hearing to the applicant;

(iii) Necessary action as above shall be taken within the period of two months from the date of receipt of a copy of this order, with intimation to the applicant. No order as to costs.


(Govindar S. Tampi)
Member (A)

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(Smt. Lakshmi Swaminathan)
Vice-Chairman (J)