

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 2637/2001

This the 19th day of August, 2002

HON'BLE SH. KULDIP SINGH, MEMBER (J)

Kanwar Sain
S/o Shri Jaswant Singh,
H.No.393/1, Gali No.1, Mohalla Nand Ram,
Brahampuri,
Delhi-110053.
(By Advocate: Sh. Yash Pal Shanker proxy for
Sh. M.P.Singh)

Versus

1. Union of India
through Secretary to the Govt. of India
Ministry of Defence, DHQ PO
New Delhi-110011.
2. The Joint Secretary (Training) &
Chief Administrative Officer,
Ministry of Defence, C-II Hutments,
Dalhousie Road, DHQ PO,
New Delhi-110011.

(By Advocate: Sh. M.K.Bhardwaj proxy for
Sh. A.K.Bhardwaj)

O R D E R (ORAL)

By Sh. Kuldip Singh, Member (J)

Applicant has filed this OA seeking declaration that applicant's disengagement as casual labour on daily wage basis on the ground of his having been allegedly convicted by a court of law is bad in law in view of the provisions of the Probation of Offenders Act, 1958. He seeks further declaration that respondents' action in denying the applicant's reengagement as casual labour on daily wage basis is totally against the spirit of judicial interpretation received by the Probation of Offenders Act, 1958. Applicant also seeks a direction to the respondents to immediately engage the services of the applicant as casual labour on daily wage basis since the ground on which his services have been terminated has failed upon judicial scrutiny thereby unsustainable in the eyes of law.



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2. The facts as alleged by the applicant in brief are that the applicant was engaged as daily wage casual labour on terms and conditions as mentioned in memo dated 21.8.2000 which is at page 22 of the paper book. The applicant further alleges that he had been performing the services to the best of his ability but subsequently he was not re-engaged and he understands that since he had filed a wrong attestation form at the time of his initial engagement as casual labour in January, 2000, that's why he has not been re-engaged. But at the time of filling up of form the applicant requested another person to fill up the form he had also informed about the criminal proceedings pending against him, being an illiterate person, he could not come to know as to what reply to various questions appearing in the form was filled by the other person.

3. As far the court's criminal proceedings are concerned, applicant submits that he has been released on probation by Magistrate. As per the provisions of Probation of Offenders Act, 1958 if the person is released on probation there is no bar for entry in Govt. service. Applicant has also referred to a judgment in AIR 1975 SC 2216 wherein it has been observed that Probation of Offenders Act does not contemplate automatic disqualification of a person released on probation. Relying upon this, counsel for applicant submitted that applicant is entitled for re-engagement.

4. Sh. Bhardwaj appearing for the respondents submitted that terms and condition for the engagement of a casual labour, as placed on record by the applicant, itself shows that offer of appointment will be granted subject to necessary police verification. The necessary police verification was got done

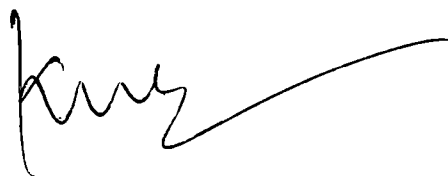


through police and it was only then it was revealed that applicant was involved in a criminal case and released on probation but this fact was not revealed by the applicant in the attestation form, so it is a case of concealment of facts, hence applicant is rightly discontinued.

5. Besides that counsel for respondents submits that for the time being no work is available so no fresh labour on casual basis have been engaged.

6. I have heard the counsel for the parties and gone through the record.

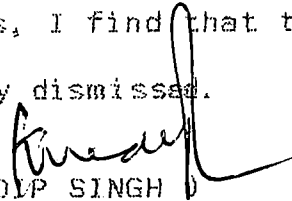
7. The judgment cited by the counsel for the applicant does show that the release of a person on probation does not contemplate automatic disqualification of a person to Govt. service but in order to apply this judgment it should be kept in mind as to whether there is concealment of facts at the time of filling up of attestation form. Had it been the case that the applicant had fully informed the department that he was convicted and released on probation and on the basis of the judgment he was not disqualified for getting entry in Govt. service then probably his case has to be considered. It is not only the criminal case but also concealment of facts which renders the applicant unfit for any job. His claim for continuation of engagement on the basis of the above judgment makes him ineligible. Even otherwise the appointment of applicant is subject to police verification and only after police verification it was revealed that applicant has concealed the fact of his criminal case so his term was not extended further.



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8. In view of these circumstances, I find that there is no merit in the OA. OA is accordingly dismissed.


(KULDIP SINGH)
Member (J)

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