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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO.2825/2001

This the 4th day of September, 2002

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

Sudhir Chaturvedi
S/o Shri P.N. Chaturvedi
House No.13/14, Bengali Ghat,
Near Agra Hotel,
Mathura (UP).

...Applicant

(By Advocate: Shri D.N. Sharma)

Versus

1. Union of India
Through the Secretary,
to the Government of India,
M/o Defence, South Block
New Delhi.
 2. The Director General of Supply &
Transport (ST-12)
Quarter Master General's Branch (Q 1 (c)),
Army Headquarters, D.H.Q. Post Office,
New Delhi.
 3. The Deputy Director of Supply & Transport
Headquarters 1, Corps
C/o 56 A.P.O.
 4. The Officer Commanding
338- Coy. Army Supply Corps (Sup.),
Type 'A', MATHURA - CANTT.
-Respondents

(By Advocate: Ms. Meenu Mainee)

O R D E R (ORAL)

Applicant has filed this OA seeking relief of reinstatement in service as Computer Operator and the regularisation on consideration of his long continuous service and may be placed in the prescribed pay scale of Data Entry Operator.

2. The case of the applicant is that he was employed as Computer Operator at 338 Supply Depot, Army Supply Corps, Mathura w.e.f. 1.11.97. Applicant also says that he possessed prescribed qualifications for the post of Data Entry Operator. He further stated that applicant besides attending

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to computer operation, was also entrusted with Accounts and other routine office work. Since the wages paid to the applicant were much less to the pay scale of the regular post of Computer Operator, applicant submitted his representation requesting for his regularisation in his long drawn ~~service~~ ^{corrected} of the post of Computer Operator and in paying him the wages at prescribed pay scale of the post with other allowances admissible under the rules but instead of regularisation the applicant, his services has been terminated from service. Applicant further relies that this termination is bad in law. He submits that under Section 23-B(2) of the Industrial Dispute Act, 1947, a "Workman" is deemed to be in continuous service under an employer if he has actually worked under that employer for not less than 240 days. Applicant also claims that as far the judgment of the Hon'ble Supreme Court in the case of Surinder Singh and another vs. Engineer-in-Chief, CPWD and others, applicant is entitled to be regularised on daily wages ^{being} in continuous employment for more than six months. Since the applicant had continued his service for such a long period, so he is entitled to be regularised.

4. The OA is opposed by the respondents. Respondents in their counter affidavit pleaded that applicant was initially called for ^{training} ~~assigning~~ the Clerks in handling the Computers installed in a Gas Agency which is run by Resp. No.4. Applicant continues to work there and he was paid a lump sum amount of Rs.1000/- per month which was later on increased to Rs.1400/- per month and was paid out of the resources of the Gas Agency and there was no direct relation between the applicant and the respondents. Since applicant was only a tutor in the Gas Agency, there was no question of issuing any notice or assigning any reason to the applicant for terminating his service. Applicant was also not sponsored by

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any Employment Exchange, hence he cannot have a claim as Computer Operator against the sanctioned post of Data Entry Operator.

5. Learned counsel appearing for the applicant referred to Annexure A-7, which is a copy of Govt. of India Ministry of Defence letter dated 10.9.1953 which is with regard to the conditions of service of workmen employed in casual capacity in which in clause (v) it is stated that if for any reason, the appointment is to continue beyond six months, the individual will not be discharged and re-employed from the same date. Instead, he is allowed to continue in service without any break and ^{will be} ~~will~~ be treated as a regular industrial employee from the date of his original appointment as casual industrial employee.

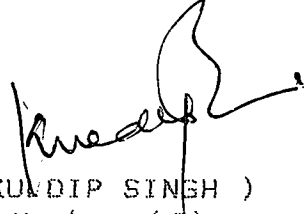
6. Relying upon the same, learned counsel for the applicant submitted that in this case, also applicant had continued to work for more than 6 months, so he is entitled to be treated as regular employee of the respondents. While all these contentions as raised by the applicant are not available to him, the applicant in the OA itself admits that he was attending to computer operation though he also claims that he is entrusted with Accounts and other routine work so he does not come within the purview of workmen under the Industrial Disputes Acts nor he was employed as workmen in casual capacity, so this letter dated 10.9.53 is not applicable to him.

7. It is an admitted case of the applicant that he was getting only a salary of Rs.1000/- which was subsequently increased to Rs.1400/- p.m. which itself suggests that it was a concluded case that applicant is a technical person so he



must be rendering only part time service as submitted by the respondents in the counter affidavit. However, there is no plea that person having technical qualification can be termed as workman doing work on regular basis for 8 hours. Applicant has also claimed regularisation for the post of Data Entry Operator which post is a Group 'C' post and Group 'C' post can be filled only by regular recruitment under the Recruitment Rules and not by engaging first part time employee and then regular employee. So I find that there is no case of the applicant.

8. No other contention has been raised by the applicant. Accordingly, OA is dismissed. No costs.


(KUNDIP SINGH)
Member (J)

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