

(2) CENTRAL ADMINISTRATIVE TRIBUNAL

PRINCIPAL BENCH, NEW DELHI

OA NO. 451/2001

(2)

This the 6th day of September, 2002

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

Shri Prem Narayan Mishra
S/o Shri Raj Kumar Mishra
C/o D.P. Gaur
Quarter No. IV/9, North West Moti Bagh,
New Delhi-110021.

..Applicant

By Advocate Shri K.L. Sharma.

Versus

Union of India
Through the Secretary,
Ministry of Human Resource Development,
Department of Education,
Shastri Bhawan,
New Delhi.

..Respondents

(By Advocate: Sh. P.P. Ralhan proxy for
Sh. J.B. Mudgil)

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By Sh. Kuldip Singh, Member (J)

Applicant has filed this OA seeking a direction to the respondents to re-engage the applicant in service and also further direction to regularise his service on the basis of number of days put in by the applicant with the respondents.

2. The facts, as alleged by the applicant in brief are that the applicant was appointed as a daily wager with effect from January, 1986 to March 1988 and continued with notional break in service and his services were dispensed with in April 1988 though still there was requirement of work. The applicant further alleges that in services of certain persons (8 in number) who had also worked on daily wages and were junior to the applicant were regularised as back as 1986 but applicant was not even called for regularisation and was kept totally in dark. Applicant had made various representations but to no avail. Even he had approached the Members of Parliament and

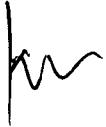
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Ministers. Applicant submits that he was treated discriminatory which is in violation of Articles 14 and 16 of the Constitution of India.

3. Respondents who are contesting the OA submitted that the applicant was engaged in the month of March 1986 when he worked for 246 days. Respondents say that if applicant had worked in 1987 he should show something to indicate that he had worked for the period mentioned by the applicant. Respondents deny that applicant had never worked with them in 1988 because no record to that effect is available with them. As far as other 6 candidates are concerned, it is submitted that those candidates approached the Tribunal and Tribunal had given directions to the respondents to re-engage them and those persons who were directed to be re-engaged have worked only in 1988 onwards. Persons who have worked in 1986 were senior to those who were engaged in the year 1989. Since there is no denial that applicant had worked for 246 days itself as such he is senior to those persons who have been directed to be re-engaged in the OA-1057/91, so I find that the applicant also has a claim for being re-engaged if the work is available with the respondents.

4. In this regard, I may also mention that in the OA-1057/91, the Court had observed in para 5 of the judgment that even in case of appointment of casual labour, respondents who maintain a casual labour register in which the period of engagement should be recorded. If disengagement of casual labourers becomes inevitable, they should strictly follow the principle of "last come first go". Since in this case it is admitted that applicant had been engaged in 1986 itself goes to show



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that applicant was senior to others who were engaged in the year 1989 but he did not approach the Court nor made any representation earlier and made a representation only at the fag end of the year 2000. On 18.1.99 he got a letter from one Hon'ble Member of Lok Sabha that shows that from 1986-99 applicant was sleeping over his rights but still considering the fact that applicant was senior to others, who had been re-engaged. That shows that respondents while re-engaging juniors and freshers had ignored the claim of the applicant. Hence, I direct that if the work is available with the respondents they should engage the applicant.


(KULDIP SINGH)
Member (J)

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