

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1200/99  
T.A. No.

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DATE OF DECISION 23.05.2000

Lokesh Petitioner(s)

Ms. Richa Goyal Advocate for the  
Petitioner(s)

Versus

U.D.I. & Ors. Respondents

Sh. VSR Krishna Advocate for the  
Respondent(s)

CORAM:

Hon'ble Dr. A. Vedavalli, Member(J)

1. Whether Reporters of local papers may be allowed to see the Judgement? —
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? —
4. Whether it needs to be circulated to other Benches of the Tribunal? —

*(Signature)*  
(Dr. A. Vedavalli)  
Member(J)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA-1200/99

New Delhi this the 23<sup>rd</sup> day of May, 2000.

Hon'ble Dr. A. Vedavalli, Member(J)

Sh. Lokesh,  
S/o Sh. Harpal David,  
R/o H.No. 99, Block No.1,  
Meerdutt Line,  
Loknaya Campus,  
New Delhi. .... Applicant

(through Ms. Richa Goyal, Advocate)

Versus

1. Union of India through  
it Secretary,  
Ministry of Finance,  
Deptt. of Revenue,  
Central Board of Excise and Customs,  
Delhi .
2. Commissioner I,  
Customs and Central Excise  
Commissionerate,  
University Road,  
Meerut.
3. Asstt. Commissioner (P&V),  
Customs and Central Excise,  
Opp. University,  
University Road,  
Meerut.
4. Superintendent,  
Customs and Central Excise,  
Opp. University,  
University Road,  
Meerut.
5. Inspector (Head Quarters),  
Customs and Central Excise,  
Opposite University,  
University Road,  
Meerut. .... Respondents

(through Sh. VSR Krishna, Advocate)

ORDER

The applicant, Lokesh, who was engaged by  
Respondent No.5 as a Gardener (casual labourer) w.e.f.

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19.09.97 is aggrieved by the alleged illegal action of the respondents in terminating his services by an oral order on 31.10.98. He is seeking quashing of the said order of termination and issuance of directions to the respondents to reinstate him with full back wages, continuance of service and conferment of temporary status in this O.A.

2. Heard the learned counsel for both the parties. Perused the pleadings and the material papers and documents placed on record.

3. It is submitted by the learned counsel for the applicant Ms. Richa Goyal that the applicant was working continuously with the respondents from the date of his engagement and has completed more than 206 days of service as is evident from the Chart placed at Annexure A-1. She further submitted that instead of conferring temporary status on him as per the provisions of the relevant Department of Personnel & Training's Scheme dated 10.09.93 regarding conferment of temporary status the respondents have arbitrarily and illegally terminated his services. She contended that no notice and retrenchment compensation were given to the applicant and hence the action of the respondents is violative of the provisions of Industrial Disputes Act 1947. She prayed that the O.A. may, therefore, be allowed with costs.



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4. Learned counsel for the respondents Sh. VSR Krishna submitted that the work for which the applicant was engaged is intermittent and seasonal and that he was not sponsored from the Employment Exchange. It was further submitted by him that the applicant was not engaged as per the procedure prescribed under the recruitment rules and that the applicant is not entitled for the reliefs which he has claimed in this O.A. since he had not worked continuously and there were a number of breaks in his service. He prayed that the O.A. is devoid of any merit and deserves to be dismissed with costs.

5. I have considered the matter carefully. It is seen that regarding several averments made by the applicant in the O.A. and in particular regarding the periods and dates of his engagement, availability of work, engagement of freshers and legal provisions etc. there is neither any specific admission nor denial or detailed reply in the counter. The respondents have given very vague routine and cryptic remarks, for example, 'no comments'. They have not furnished any specific information as to the periods and dates of engagement and disengagement of the applicant. The dates of engagement given by the applicant in Annexure A-1 to the O.A. have not been denied by the respondents. There is no answer from them as to why the short breaks between the periods of engagement cannot be considered as artificial breaks in law. They have also not given any reasons for considering the nature of the

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work done by the applicant (gardening) as intermittent or seasonal as the upkeep and maintenance of a garden by its very nature is a continuous process. Be that as it may, in view of the peculiar facts and circumstances of this case and in view of the foregoing discussion, the O.A. is disposed of with the following directions to the respondents:-

- (i) As and when work becomes available and steps are taken to engage casual labourers again, the respondents should inform the applicant about the same.
- (ii) The applicant should be given adequate opportunity to submit his application for re-engagement.
- (iii) The respondents should not insist upon the applicant being sponsored through the Employment Exchange.
- (iv) In the event of an application being submitted by the applicant, he should be considered for re-engagement alongwith other eligible candidates, if any, in accordance with law giving due weightage to his past service under the respondents and in preference to his juniors and freshers.



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(v) In case the applicant is re-engaged, the respondents should consider conferment of temporary status on him in accordance with the relevant rules and instructions including the D.O.P & T's O.M. dated 10.09.93 (Annexure A-2 to the OA).

Order accordingly. No costs.

A. Vedavalli

(Dr. A. Vedavalli)  
Member(J)

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