

IN THE CENTRAL ADMINISTRATIVE TRIBNAL

NEW DELHI

11

O.A. No. 1677/99
T.A. No.

DATE OF DECISION 23.05.2000

Lal Singh

Petitioner(s)

Sh. H.C. Sharma

Advocate for the
Petitioner(s)

Versus

NCT of Delhi & Ors.

Respondents


Sh. Ajesh Luthra

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?


(Dr. A. Vedavalli)
Member(J)

Cases referred:

State of Assam & Ors. Vs. Shri Kanak Chandra Dutta
(1967 (1) SCR 679)

(12)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-1677/99

New Delhi this the 23rd day of May, 2000.

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

Shri Lal Singh,
S/o Sh. Mahinder Singh,
R/o F 4/180, Sultanpuri,
New Delhi-41. Applicant

(through Sh. H.C. Sharma, Advocate)

Versus

1. NCT Delhi through
Secretary, Deptt. of
Prevention of Food
Adultration, Govt. of
Delhi, A/20, Lawrence Road,
Industrial Area, Delhi-36.
2. Joint Director,
Deptt. of Prevention of Food
Adultration, Govt. of Delhi,
A/20, Lawrence Road, Industrial
Area, Delhi-36. Respondents

(through Sh. Ajesh Luthra, Advocate)

O R D E R

The applicant, Lal Singh, who was working as a casual labourer under the respondents is aggrieved by their alleged verbal termination order dated 09.04.99 and has impugned the same in this O.A.

2. He is seeking in this O.A. quashing of the said termination order and his reinstatement with consequential benefits and also the issue of directions to the respondents for the payment of wages for the months of March-April, 1999.

3. The O.A. is contested by the respondents who have filed their counter to which a rejoinder has been filed by the applicant.



13

4. Heard the learned counsel for both the parties and perused the pleadings and the material papers placed on record.

5. Learned counsel for the applicant Shri H.C. Sharma submitted that the applicant was appointed by the respondents as a waterman (part time) by an order dated 27.05.98 (Annexure A-I). He further submitted that the applicant was selected for the said post by a Departmental Promotion Committee after interview and screening and that he was sponsored by the Employment Exchange. He has also stated that the applicant was assigned other duties also by the respondents. It was contended by him that the applicant worked for more than 240 days continuously and that the impugned verbal order deserves to be quashed as the same was issued without due notice to him and is violative of the principles of natural justice. He prayed that the reliefs prayed for by the applicant in this O.A. may be granted and the O.A. be allowed with costs. In this connection he relied on the decision of the Supreme Court in the case of State of Assam & Ors. Vs. Shri Kanak Chandra Dutta (1967(1)SCR 679).

6. Learned counsel for the respondents Shri Ajesh Luthra in reply submitted that in May 97 to 98, five candidates on selection were engaged as watermen

14

on part time basis and the applicant was put in the waiting list. As one of the selected candidates Mahender Singh did not join the applicant was engaged on 28.05.98 in his place and it was made clear to him, inter alia, in the appointment order (Annexure A-I) that the period of engagement is likely to end by the month of October 1998 and that the candidates would not be entitled for regular empanelment. It was denied by him that the applicant has worked for 260 days or more till 09.04.99 as alleged by him. It was also stated that the applicant preferred shift duty and worked for only 4 hours a day from 9.30 A.M. to 1.30 P.M. and not full time as alleged by him. It was also submitted by him that after October 1998 the applicant was re-engaged as daily wage worker alongwith two others as regular staff was engaged in election duties. It was also stated that the applicant worked upto 26.02.99 only in that capacity for a total number of 88 days during that period and that the requisite number of 206 days (as the office of respondents observe 5 days a week) were not put in by the applicant for claiming conferment of temporary status. It was also submitted that the work of waterman is not of a perennial nature and it is only for a few months in a year that persons are engaged for the same and that there was never any question of a D.P.C. being held as there was no 'post' under any recruitment rules. The receipt of any representation from the applicant was also denied. Learned counsel

By

15

5
for the respondents prayed that the O.A. is, therefore, devoid of any merit and deserves to be dismissed.

7. I have given my careful consideration to the matter. The applicant by his own admission has been engaged initially as a part time waterman. He failed to establish with supporting material the existence of any civil post of waterman (part time) under the respondents with definite and relevant recruitment rules for filling up the same after selection by a duly constituted D.P.C. under the said rules. The decision of the Supreme Court in the case of State of Assam & Ors. (supra) does not help him since the said case relates to an entirely different set of facts and circumstances. The applicant has also not been able to establish that he worked as a daily wager for more than 206 days. He has also not given any material to show that he worked during the months of March 99 and April 99 as alleged by him.

8. In the facts and circumstances of this case and in view of the foregoing discussion, I am of the opinion that the applicant has not been able to establish the violation of any of his vested legal rights under the law by the respondents and that he is, therefore, not entitled for any of the reliefs claimed by him in this O.A. In the result, the O.A. is dismissed.

[Signature]

16

5 9. However, in the interests of justice, respondents are directed to inform the applicant if any suitable vacancy becomes available in future and give him sufficient opportunity to apply for the same without insisting that he should be sponsored through the Employment Exchange, since he did work for some time under the respondents. In the event he applies for the said job, he should be considered on his merits alongwith other eligible candidates in accordance with the relevant rules and instructions, giving due weightage to his past experience and in preference to his juniors and freshers.

Order accordingly. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member(J)

/vv/