

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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OA 430/99

New Delhi this the 31st day of August, 1999

Hon'ble Smt. Lakshmi Swaminathan, Member (J)

In the matter of

Sh. Satya Dev Rao
S/O Sh. Vitthal Rao
R/O 3-2-2-Sector, 13,
R.K. Puram, New Delhi.

.. Applicant

(By Advocate Sh. U.S. Chaudhary)

Versus

1. The Comptroller and Auditor
General of India, I.T.O.,
New Delhi.
2. Principal Director Audit,
Economic and services Ministries,
A.G.C.R. Building, I.P. Estate,
New Delhi.
3. Union of India
through Secretary,
Ministry of Finance,
New Delhi.

.. Respondents

(By Advocate Shri M.K. Gupta)

O R D E R (ORAL)

(Hon'ble Smt. Lakshmi Swaminathan, Member (J))

The applicant is aggrieved by the oral order given by the respondents dated 12.6.98 disengaging him from service as casual labour/Staff Car Driver.

2. The brief facts of the case which are not in dispute are that the applicant was engaged as casual labour w.e.f. 9.5.97 and his services were also utilised as Staff Car Driver by the respondents occasionally as he possessed a valid driving licence. Respondents have stated in their reply that they used the services of the applicant as staff car driver in the absence of ^{the} regular staff car driver who was on leave and he worked with the respondents for 182 days on daily wages w.e.f. 9.5.97 to 15.11.97 during 1997 and was re-engaged in Jan., 1998 by Respondent No. 2. According to the learned counsel for the

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applicant, the respondents had no rhyme or reason to dispense with the services of the applicant w.e.f. 12.6.98 by the impugned oral termination order. However, Shri Gupta, learned ^{counsel} for the respondents submits that it is not correct. He states that on 12.6.98, the applicant did an irresponsible act by handing over ^{the} staff car to an unauthorised person from another office without informing or seeking permission of the competent authority to bring the Principal Director of Audit from his residence to ~~this~~ office. The respondents have stated that this act on the part of the applicant was most irresponsible and negligent which led to the lack of trust on him and hence his services were dispensed with w.e.f. 12.6.98. Shri Chaudhary, learned ^{counsel} for the applicant, however, submits that this is not the correct position as the applicant had left the car in the office on 11.6.98 as he was unwell.

3. Shri U.S. Chaudhary, learned counsel for the applicant has also submitted that after disengaging the applicant from service, the respondents have engaged another staff car driver also on ad hoc basis which is also against the law laid down by the Hon'ble Supreme Court in the case of State of Haryana Vs. Piyara Singh (1992(3) SLJ 34. He has, therefore, prayed that a direction may be given to the respondents to put the applicant back in service with all consequential benefits and for regularisation of his services against the post of staff car driver. Learned counsel also submits that the respondents have still not paid 11 days salaries ^{due} due to the applicant for the Month of June, 1998 when he worked. Shri Gupta, learned counsel for the respondents, has, however, handed over the amount due to the applicant on proper receipt and therefore, no further claims survive on that account.

4. Shri M.K. Gupta, learned counsel has correctly pointed out that with regard to the question of regularisation of the applicant as staff car driver in Group 'C' post ^{it will have to be done} under the Recruitment Rules.

For the post of staff car driver, the method of recruitment is either by transfer or deputation failing which by direct recruitment

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and the age prescribed is not exceeding 25 years. He has submitted that the applicant in any case is a casual labourer and it was only occasionally that he had been asked to handle the staff car when the regular staff car driver was absent or on leave.

5. I have carefully considered the pleadings and the submissions made by the learned counsel for both the parties.

6. It is an admitted fact that the applicant's services had been utilised by the respondents themselves as staff car driver whenever the need arose. It is not disputed that the applicant has a valid driving licence. It is also not disputed that the applicant has been appointed as casual labourer on different spells with the Respondents and they cannot dispense with his services and re-engage another casual labourer on ad hoc basis which is contrary to the settled principles of law. Whether the applicant had left the car behind in the office on 11.6.98 as he claims and someone else had taken the staff car on 12.6.98 to bring the Principal Director of Audit is a question of fact. There is nothing on record to show that the respondents have considered this aspect of the matter or ascertained the facts by conducting any enquiry in the case. The contention of the respondents that the applicant is not possessing qualifications as staff car driver under the Recruitment Rules cannot be straightaway accepted because they themselves had thought it fit to utilise his services as driver whenever they needed his services on that post.

7. In view of what has been stated above, the OA succeeds and is allowed. Respondents shall take the applicant back in service as casual labourer. They shall continue the applicant in service so long as there is work and his services can be dispensed with only in accordance with law and rules. In any case,

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they cannot replace the applicant who was working as casual labourer/ staff car driver on adhoc basis by another ad hoc employee. It is, however, made clear that the applicant shall not be entitled to any back wages during the period he was out of job.

No order as to costs.

Lakshmi Swaminathan
(Smt. Lakshmi Swaminathan)
Member (J)

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