

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

OA 603/1999

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New Delhi this the 24th day of March, 2000

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

Sh. Mohinder Kumar  
S/O Sh. Jagdish Prakash  
R/O 85/272, Panchkhian Road,  
New Delhi-1

.. Applicant

(By Advocate Sh. M. K. Bhardwaj, learned  
counsel through proxy counsel Sh. A. K.  
Trivedi )

Versus

Union of India through

1. The Secretary,  
Govt. of India,  
Ministry of Surface Transport,  
Border Roads Development Board,  
'B' Wing, 4th Floor, Sena Bhawan,  
New Delhi.
2. The Under Secretary,  
Govt. of India, Ministry of Surface  
Transport, Border Roads Development  
Board, 'B' Wing, 4th Floor, Sena Bhawan,  
New Delhi.

.. Respondents

(By Advocate Sh. N. S. Mehta, learned senior  
counsel through proxy counsel Sh. Yogesh  
Sharma )

O R D E R (ORAL)

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

The applicant is aggrieved by the verbal termination order passed by the respondents terminating his services as casual labourer.

2. According to the applicant, he was engaged as casual labourer w.e.f. 10.5.95. He has stated that <sup>on</sup> 1.5.97 the respondents had granted him 'Temporary Status' by order dated 26.9.97. Applicant has stated that he was not given his salary for the period from 1.3.98 to 12.8.98 when his services were terminated without even ~~is~~ show cause notice. His grievance is that even after terminating his services another similarly situated person, namely, Sh. Sunil Kumar had been continued in service as Peon. He has also stated that the respondents have later called for further names of fresh persons from the Employment Exchange for engagement as Group 'D' employees which

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is also contrary to the provisions of the DOP&T OM dated 10.9.93. Applicant has also submitted that the action of the respondents is arbitrary and discriminatory and is in violation of the provisions of Articles 14 and 16 of the Constitution. He has submitted that as he was worked satisfactorily with the respondents as casual labourer from 10.5.95 and has also been granted 'Temporary Status' there is no reason why his services should have been terminated.

3. I have perused the reply filed by the respondents. According to them, their action for grant of 'Temporary Status' to the applicant was erroneous. They have also categorically stated that the applicant should not have entered the office after 28.2.1998 with the intention to work. According to them, since he was <sup>a</sup>casual labourer, this cannot be termed as a 'Service' and his services could be terminated at any time without giving him any notice and without assigning any reasons. This ground mentioned by the respondents themselves clearly shows that they have not followed the instructions in the DOP&T Scheme dated 10.9.93. The respondents have admittedly issued Office Order No.33/97 dated 26.9.97. In this order, they have granted 'Temporary Status' to the applicant w.e.f. 1.5.97 in which it is also stated that he will be entitled to draw salary and other service benefits as per OM dated 10.9.93. Having done this, their contrary averments in the reply that the engagement of the applicant can be terminated without giving any notice and without assigning any reasons is clearly contrary to the DOP&T instructions dated 10.9.93. From the reply filed by the respondents it appears that <sup>there</sup> ~~might be~~ <sup>some</sup> irregularity committed by ~~some~~ some officer in their office but it has not been stated that any wrongful <sup>has been</sup> action/taken by the applicant himself. In any case, they should have taken the necessary corrective steps, if there was any need, before issuing the Office Order dated 26.9.97. Having failed to do so, while terminating the applicant's service, as he has acquired certain rights as a casual labourer with 'Temporary Status' the

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respondents should have given him at least a show cause notice and an opportunity of being heard before terminating his services. It is further noted that they have also stated that one Shri Sunil Kumar who is junior to the applicant has also since been regularised in the service as casual labourer. In the facts and circumstances of the case, the termination order of the applicant, without giving him a show cause notice is in violation of the provisions of natural justice and is, therefore, liable to be set aside on this ground alone. Having granted 'Temporary Status' to the applicant w.e.f. 1.5.97 he is also entitled to get one month notice before termination of his service in terms of the DOP&T OM dated 10.9.93 which has also apparently not been followed by the respondents.

4. In the result, the application is entitled to succeed and is allowed to the extent that the termination order dated 12.8.98 is set aside. The respondents are directed to re-instate the applicant within one month from the date of receipt of a copy of this order. It is, however, made clear that the applicant shall not be entitled to any back wages when he was out of job but any wages due to him for services actually rendered by him previously, if not already paid, shall be paid to him immediately. Liberty is, however, granted to the respondents to proceed against him in accordance with law. No order as to costs.

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

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