

Central Administrative Tribunal
Principal Bench

O.A. No. 1727 of 1998

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New Delhi, dated this the 7th March, 2000

HON'BLE MR. S.R. ADIGE, VICE-CHAIRMAN (A)
HON'BLE MR. KULDIP SINGH, MEMBER (J)

Shri A.K. Dogra,
S/o Shri P.D. Dogra,
R/o A-89, First Floor,
Ganesh Nagar Extn Part II,
Shakarpur,
Delhi-110092. ... Applicant

(By Advocate: Shri S.S. Tiwari)

Versus

1. Union of India through
the Secretary,
Dept. of Urban Affairs & Employment,
Nirman Bhawan, New Delhi.
2. Director General Works,
C.P.W.D., Nirman Bhawan,
New Delhi.
3. Executive Engineer,
Shahdara Central Division,
C.P.W.D., I.P. Bhawan,
New Delhi-110002. ... Respondents

(By Advocate: Shri V.S.R. Krishna)

ORDER

HON'BLE MR. S.R. ADIGE

Applicant seeks regularisation as a Driver
with consequential benefits.

2. His case is that he joined C.P.W.D. as a
driver on 10.12.96 on the instructions of Asst.
Engineer, NOIDA Sub-Division IV, CPWD on a monthly
consolidate salary of Rs.3100/- and has worked without
break till date and has thus completed more than 206
days in a year. He contends that earlier he was
being paid salary and over time directly by

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respondents, but of late respondents are paying him through a contractor, who, however, remains on paper only and the actual payment is from respondents funds. He contends that respondents have appointed new drivers on hand sheet basis and not through contractors, and they are going to dispense with his services by first week of September, 1998. Aggrieved by inaction of respondents in regularising his services, applicant has filed this O.A. 15

3. Respondents in reply challenge the O.A. They deny that applicant has been engaged by them or that they pay wages to him. They contend that applicant's services have been provided by the contractor and there is no master-servant relationship existing between them and applicant. Furthermore they state that the post of Driver is a Group C post and its recruitment is governed by Recruitment Rules.

4. Applicant has not filed any rejoinder rebutting these specific averments of respondents.

5. We have heard both sides.

6. Applicant's counsel relies upon the Tribunal's order dated 28.7.98 in O.A. No. 256/98 Shri B.N.Misra & Others Vs. Union of India which in turn has discussed the Hon'ble Supreme Court's ruling in Union of India & Others Vs. Subir Mukherjee and Others JT 1998 (3)SC 540. That order and ruling

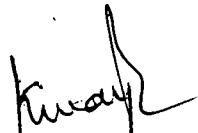
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related to cases of labourers who were Group D employees, but as pointed out by respondents the post of Driver is a Group C post and it has been held in O.A. No. 2360/98 Devendra Kumar Vs. Union of India that the Scheme for grant of temporary status and regularisation of casual labourers promulgated under DP&T's O.M. dated 10.9.93 under which applicant is seeking relief has no application in regard to Group C posts. (16)

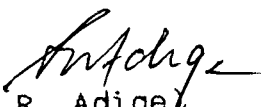
7. Furthermore the question of regularisation depends on availability of regular vacancies, and there is no averment in the O.A. that regular vacancies of drivers are available with respondents against which applicant can be regularised.

8. It will be open to applicant to approach respondents for ^{appointment} ~~appointment~~ against a regular vacancy, if and when the same becomes available.

9. The O.A. is disposed of in terms of Paragraph 8 above. Interim orders are vacated. No costs.


(Kuldip Singh)
Member (J)

gk


(S.R. Adige)
Vice Chairman (A)