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CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH
NEW DELHI

O.A. No. 654 of 1998 decided on 10.9.1998.

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Name of Applicant : Raghvender Singh

By Advocate : Shri S.K.Gupta

Versus

Name of respondent/s Govt. of N.C.T. & ors

By Advocate : Amresh Mathur

Corum:

Hon'ble Mr. N. Sahu, Member (Admnv)

1. To be referred to the reporter - Yes/No
2. Whether to be circulated to the other Benches of the Tribunal. - Yes/No

N. Sahu
(N. Sahu)
Member (Admnv)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.654 of 1998

New Delhi, this the 10th day of September, 1998

Hon'ble Mr. N. Sahu, Member(Admnv)

Raghvender Singh, S/o Shri Shyam R/o
U.T.S. Qr. No.11, Near Arjun Nagar,
Vishwas Nagar, Karkardooma,
Delhi - 110 032.

(8)
-APPLICANT

(By Advocate Shri S.K.Gupta)

Versus

1. Govt. of N.C.T. of Delhi, through
Chief Secretary, 5, Sham Nath Marg,
Delhi.

2. Deputy Secretary (Admn) Govt. of
N.C.T. of Delhi, G.A.D., 5, Sham Nath
Marg, Delhi.

3. Secretary, Delhi Subordinate
Services Selection Board, Near
Karkardooma Courts, Institutional
Area, East Arjun Nagar, Shahdara,
Delhi-110031.

(K)
-RESPONDENTS

(By Advocate Shri Amrish Mathur)

O R D E R (Oral)

By Mr. N. Sahu, Member(Admnv)-

The relief claimed in this O.A. is for a direction to the respondents to confer temporary status upon the applicant; engage him in preference to juniors and outsiders; and consider his regularisation in accordance with the Government of India's Scheme dated 10.9.1993. The final prayer is that the respondents may be directed to make payment of wages to the applicant for the period effective from 9.12.1997 to 15.1.1998.

2. The above prayers are made in the background of the following facts. The applicant was a Driver

on casual basis in the Office of the respondents with a valid driving licence. He was initially employed for a period of 69 days by the office of respondents 1 and 2 by the letter dated 26.8.1996 (Annexure-A-1). (9)

The applicant was sponsored by the Employment Exchange at that time. Subsequently, the respondents further extended the engagement by 89 days vide order dated 4.12.1996 and thereafter for an equivalent period with effect from 3.3.1997. The extensions have gone on in this fashion up to the last extension given on 12.9.1997 for a period of 89 days. While he was working during October, 1997 his services were transferred to the Office of respondent no.3 vide order dated 15.7.1997. He worked there upto 15.1.1998 without any break. Thus, the fact is that from 26.8.96 to 15.1.1998 the applicant has been working continuously under valid orders without break under one or the other of the respondents to this O.A. He made a representation for regularisation on 11.2.1998 and also claimed wages from 9.12.1997 to 15.1.1998. It is noticed that some persons in Annexure-A-1 who were engaged along with the applicant are continuing while the applicant's services were terminated.

3. The learned counsel for the respondents submits that the names of persons mentioned in Annexure-A-1 were sponsored by the Employment Exchange and interview was conducted on 4.8.1998 and they were selected on 7.8.1998. He also states that the applicant's name was not forwarded in the list sent by the Employment Exchange in response to a

requisition of the Deputy Secretary (Admn) to the SREO, Employment Exchange by letter dated 30.7.1998.

In the background of the above facts, it is submitted by the respondents that the applicant having not been sponsored by the Employment Exchange, cannot claim to be engaged or reengaged and that the persons already appointed in accordance with law cannot yield place to the applicant. He also states that if in future work is available, respondents shall consider the claim of the applicant.

(10)

4. It is not disputed that the applicant has been working for the period from 26.8.1996 to 15.1.1998. Extensions were repeatedly given. He was initially appointed after the respondents were satisfied about his qualification, his driving licence, and also the fact he was sponsored by the Employment Exchange. In that view of the matter, there is no justification of the respondents' action to insist on a further sponsoring by the Employment Exchange when they consider filling up the vacancy albeit on casual basis during August, 1998. I am of the view that there is no justification for taking such a view. The earlier decision of the Hon'ble Supreme Court in the case of **Union of India and others Vs. N.Hargopal & ors**, JT 1987(2)SC 182 has been considered by their Lordships in the case of **The Excise Superintendent, Malkapatnam, Krishna District, Andhra Pradesh Vs. K.B.N. Visweshwara Rao & Ors**, JT 1996(9)SC 638. Their Lordships gave no doubt primacy to the source of Employment Exchange for sponsoring candidates strictly in accordance with seniority and

✓ reservation but they stated that, in addition, the department also should call for names by publication in Newspapers; display on notice boards; and announcement in Radio and Television. The idea is that equality of opportunity in the matter of employment should be made available to all eligible candidates. Restricting consideration to those candidates only who were sponsored from the Employment Exchange has been considered to be inadequate. The point is that the Hon'ble Supreme Court has held that sponsoring by the Employment Exchange is not an exclusive condition precedent for engagement.

(11)

5. In the present case the applicant has been working for a period of nearly two years with the respondents. It is not the respondents' case that the applicant was indisciplined or inefficient or contumacious. Since these averments have not come on record and he has been continuing in service, the decision of the Hon'ble Supreme Court in Ghaziabad Development Authority Vs. Sh. Vikram Chaudhary and others, JT 1995 (5) SC 636 will hold the field. The Hon'ble Supreme Court has laid down that when a casual labourer has worked under a respondent for a particular period of time, his seniority should be respected and he cannot be summarily terminated if (a) work is available; (b) no seniors are competing with him and (c) the employer is satisfied about his performance. As it is noticed from the averments here, the applicant has rendered satisfactory service, otherwise there was no need of the

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respondents to continue his services once in every three months during the last two years. That apart, he is qualified and his name was initially forwarded by the Employment Exchange. In the conspectus of the above facts, the respondents should have respected his seniority and should have called him as the candidate along with others for consideration of a post even on a provisional basis as a casual labourer.

(12)

6. We, therefore, direct that the respondents shall consider the case of the applicant for engagement in preference to juniors and outsiders to all existing posts as they existed in August, 1998. They shall also consider granting him temporary status and other benefits in accordance with OM of Ministry of Personnel dated 10.9.1993. Finally, I agree with the applicant's counsel that this being a Government department and the applicant having worked with them from 9.12.97 to 15.1.98 wages at the prescribed notified rates shall be paid to him within a period of four weeks from the date of receipt of a copy of this order. The O.A. is disposed of. No costs.


(N. Sahu)
Member (Admnv)

rkv.