

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 757 of 1998

MAs-898/99 and 590/99

New Delhi, this the 18th day of May, 1999

HON'BLE SHRI N. SAHU, MEMBER(A)

Akhilesh Kumar Gaur,
58, Pocket B-5,
Sector-18, Rohini,
Delhi-110085.

-APPLICANT

(By Advocate: Shri S.K. Sinha)

Versus

1. Govt. of NCT of Delhi
through:
The Chief Secretary,
Govt. of N.C.T. of Delhi,
5, Shamnath Marg,
Delhi.

2. The Secretary,
Irrigation & Flood Control,
Govt. of N.C.T. Delhi,
559, Under Hill Road,
Delhi.

3. The Chief Engineer,
Irrigation & Flood Control,
4th Floor, I.S.B.T.,
Delhi.

-RESPONDENTS

(By Advocate: Shri Vijay Pandita)

O R D E R (ORAL)

By Hon'ble Shri N. Sahu, Member(A)

Heard Shri S.K. Sinha, learned counsel for the applicant and Shri Vijay Pandita, learned counsel for the respondents.

2. Prayer in this O.A. is to quash the order dated 16.1.98 whereby services of the juniors to the applicant have been regularised and direct the respondents to engage the applicant on the next available regular vacancy/temporary vacancy/emergency vacancy of Works Assistant.

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3. The applicant was initially engaged on 16.9.87 as a Works Assistant on daily wages. He continued upto 30.4.88. He preferred OA-1931/94. By an order dated 6.11.96, the respondents were directed to consider the applicant's case in available vacancies. When the orders of the court were not implemented, the applicant moved the Tribunal by way of a Contempt petition. Again the respondents undertook to consider the applicant's case for regularisation. Meanwhile the applicant was engaged on 19.3.94 and continued till 15.6.94. On 16.1.98, by the impugned order, juniors and fresh appointees have been regularised. It is against this order that the present O.A. has been filed. After the filing of this OA, the respondents have again appointed the applicant on 20.7.98 and he is continuing till date under the court's orders.

4. Learned counsel for the applicant states that the very fact that the applicant was engaged once in 1994 and later in 1998 shows the need for his services and on that reckoning, the Tribunal's order should have been complied with. He next counts the services rendered by him from 1987 onwards and states that the aggregate number of days of work exceeds 550 days. He accordingly claims temporary status and preference for regularisation. By the order dated 16.1.98, a large number of persons were regularised. One of them Shri Manoj Gautam has resigned from his job and as on date, there is a clear vacancy available for considering the applicant's case.

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5. The fact remains that in view of the C.A.T. decision in OA-1931/94 dated 4.12.97 followed by C.P.No.310/97, the applicant was appointed on 20.7.98 and he is continuing till date. This period is a continuous period. Services rendered in this period must be considered for conferring on the applicant temporary status. If the aggregate number of working days is 206 in a five-day week and 240 days in normal course of six days working in a week, the applicant should be considered for temporary status. Even otherwise, in view of the history of the applicant's appointment from 1987 onwards and the directions given in the earlier OA, it would be appropriate if the applicant is continued in the job for which he was engaged on 20.7.98. The moment he completes 240 days, he shall be considered for temporary status and an order be issued to him accordingly provided other conditions are satisfied. After that as there is a clear vacancy available, he should also be considered for regularisation provided he satisfies all other conditions such as educational qualification etc. and there are no seniors available competing with him for this purpose.

6. Learned counsel for the applicant states that 240 days have already been completed. Even if there is a shortfall, the applicant may be continued till he completes this period and an order of temporary status be initially issued to him and, thereafter, he should be considered for regularisation.

7. M.A.590/99 is for placing certain documents indicating seniority position of the applicant. A reply to this M.A. has been filed and the correctness of the

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documents has been accepted. MA-898/99 is an application for amendment to the prayer clause of the O.A. seeking a direction to the respondents to consider the applicant for regularisation on the post of Works Assistant. This M.A. has not been replied to but the O.A. disposed of above answers the prayer in this M.A. also. In the result, the O.A. and both the MAs are disposed of together. No costs.

8. Now that the O.A. is disposed of, respondents' M.A. for vacation of stay does not survive.

N. Sahu
(N. SAHU)
MEMBER(A)

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