

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI

C.P. NO. 336/94

in

O.A. NO. 325/94

(9)

New Delhi this the 31st day of October, 1994

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN

HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER (A)

Shri Kamal S/O Shri Kishan Lal,  
R/O 124, Jodhpur Mess,  
Pandara Road,  
New Delhi - 110003.

... Applicant

By Advocate Shri M. K. Gupta

Versus

1. Shri P. P. Chauhan,  
Chief Secretary,  
Govt. of National Capital  
Territory of Delhi,  
5, Sham Nath Marg,  
Delhi.
2. Shri Balbir Singh,  
Secretary (Services),  
Govt. of National Capital  
Territory of Delhi,  
5, Sham Nath Marg,  
Delhi.
3. Hon'ble Mr. Justice G. C. Jain (Retd.),  
Chairman,  
Commission for Other Backward  
Classes, 5th Floor,  
Vikas Minar,  
New Delhi - 110002. ... Respondents

O R D E R (ORAL)

Shri Justice S. C. Mathur, Chairman —

The applicant alleges disobedience by the respondents of this Tribunal's judgment and order dated 26.5.1994 passed in O.A. No. 325/94.

2. It appears from a perusal of the aforesaid judgment that the applicant was appointed as Peon-cum-Messenger on daily wages in Justice Jain-Shri Aggarwal Committee w.e.f. 29.8.1991. Later, his

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services were dispensed with. He challenged the dispensation of his services through the aforementioned O.A. In the O.A. the applicant appears to have raised the plea that persons similarly situated, namely, Rajesh Kumar and Jawala Prasad had been retained in service while his services had been dispensed with.

2. The Tribunal in its judgment of which disobedience is alleged observed that it was not a fit case in which the order of termination of service be interfered with or the respondents be directed to reinstate the applicant. After making these observations, the Bench observed :-

"...The applicant should be satisfied if we direct the respondents to consider his case for being appointed as temporary peon-cum-messenger for being put on par with S/Shri Rajesh Kumar and Jawala Prasad. We, accordingly, direct the respondents to consider the case of the applicant for being appointed as temporary peon-cum-messenger as in the case of Rajesh Kumar and Jawala Prasad. We make it clear that for giving adhoc appointment, after considering the case of the applicant, it will not be necessary for the respondents to appoint the applicant as temporary peon-cum-messenger. Any other suitable job, keeping in view the nature of job of S/Shri Rajesh Kumar and Jawala Prasad may be offered by the competent authority."  
(Emphasis supplied).

3. After the judgment of this Tribunal had been brought to the notice of the authorities concerned, they admittedly considered the case of the applicant as is apparent from the order dated 10.8.1994 (Annex. C-5). It appears from this order that the applicant was given a personal hearing and thereafter the order was passed in which it is stated, "...it is

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just not possible at present to offer him any job as there is no vacant post available. However, as and when, there is a requirement of daily rated worker to be engaged with the Commission, his name will be considered along with others."

4. From the above order it is apparent that the case of the applicant has been considered but he could not be given appointment at the time the order was passed as no vacant post was available. In our opinion, the respondents cannot be said to have disobeyed the order of the Tribunal. It needs to be pointed out that the order of the Tribunal was of a recommendatory nature. It did not require the respondents to necessarily give appointment to the applicant. The consideration also cannot be said to be based on irrelevant facts and appointment could be given to the applicant only when vacant post was available.

5. From subsequent events, it appears that the authorities had been trying to accommodate the applicant to the extent possible. The undated order, copy of which has been filed as Annexure C-7 (learned counsel states that the order is dated 4.10.1994), offers the applicant the post of Farash-cum-Sweeper on daily wages basis for 89 days. The learned counsel submits that this offer of appointment is not in conformity with the directions of this Tribunal as Rajesh Kumar and Jawala Prasad were not working on daily wages basis but they had been appointed on temporary and ad hoc basis. Regarding temporary

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and ad hoc appointment, the administration had already taken decision on 10.8.1994. In the absence of a temporary and ad hoc post, the respondents have tried to accommodate the applicant by offering him the post of Farash-cum-Sweeper on daily wages basis, as per Annexure C-7.

6. In view of the above, we are unable to accept the submission of the learned counsel that the judgment of this Tribunal has been disobeyed. The application lacks merit and is hereby dismissed in limini.

*P. T. Thiruvengadam*  
( P. T. Thiruvengadam )  
Member (A)

*S. C. Mathur*  
( S. C. Mathur )  
Chairman

/as/