

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI

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O.A.No.410 of 1995

New Delhi, this the 20th day of December, 1995
HON'BLE MRS LAKSHMI SWAMINATHAN, MEMBER(J)
HON'BLE MR R.K.AHOJA, MEMBER(A)

1. Shri Naresh Kumar
A-Block,
12/21, Janak Puri,
P&T Quarters,
New Delhi.
2. Shri Ratan Lal,
22/80, Maulana Azad Medical Colony,
New Delhi.
3. Shri Suraj Bhan,
14, Mali Marg,
Malika Gunj,
Delhi. Applicants.
(through Mr C.Hari Shankar, Advocate).

vs.

1. Union of India
through the Secretary,
Ministry of Commerce,
Udyog Bhawan,
New Delhi.
2. Deputy Controller of Patents & Designs,
Patent Office Branch,
Govt. of India, Municipal Market Building,
3rd Floor, Karol Bagh,
New Delhi.
4. Shri Desh Raj,
Peon,
Deputy Controller of Patents & Designs,
Patent Office Branch,
Govt. of India, Municipal Market Building,
3rd Floor, Karol Bagh, New Delhi.
5. Shri Hansh Raj,
Peon,
Deputy Controller of Patents & Designs,
Patents Office Branch,
Govt. of India, Municipal Market Building,
3rd Floor, Karol Bagh,
New Delhi.
6. Shri Gulab Singh,
Peon,
Deputy Controller of Patents & Designs,
Patent Office Branch,

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Govt of India, Municipal Market Building,
3rd Floor, Karol Bagh, New Delhi.
(through Mr KCD Gangwani, Advocate).

.. ... Respondents.

O R D E R

Per Mrs Lakshmi Swaminathan, Member(J)

The applicants are aggrieved by the verbal order of termination, issued to them on 12th July, 1994, whereby their adhoc services were terminated with effect from 14th July, 1994 and the subsequent recruitment of fresh adhoc employees, i.e., respondents No.4 to 6, in their place, who are continuing in service, They have preferred this application under Section 19 of the Administrative Tribunals Act, claiming the following reliefs:

(i) to quash the action of the respondents in terminating the services of the applicants with effect from 14.7.1994;

(ii) to grant all consequential benefits ; and

(iii) costs of the application.

2. The brief facts of the case are that the applicants were working as adhoc Peons in the office of Respondent No.2. From the perusal of Memorandum dated 2-11-1993(Annexure A-1) issued to the three applicants, it will be seen that they had been sponsored by the sub-regional Employment Exchange and they were informed that they were selected for appointment to the posts of Peons on purely adhoc and temporary basis. By the orders dated 23.11.1993, the applicants were required to

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appear for the interview on 2.12.1993. Thereafter by an order dated 16.12.1993, the applicants were appointed as Peons on purely adhoc basis for a period from 3.12.1993 to 14.01.1994 in the pay-scale of Rs.750-940(Annexure A-3).

The adhoc employment of the applicants was extended from time to time(Annexures A-4 and A-5) upto 14.7.1994. Only on 12.7.1994, the applicants were informed that they would not be granted any further extension and that their services would be terminated with effect from 14.7.1994.

Apprehending that respondent No.2 would recruit fresh adhoc employees in their place, the applicants filed an earlier O.A.No.1436 of 1994 (Naresh Kumar & others vs. Union of India and others) praying that the termination order may be quashed and their services regularised. This O.A. was dismissed as it was felt that applicants ¹³ cannot / ¹³ raise grievance only on apprehension and no cause of action had arisen then(Annexure A-3).

3. The applicants submit that actually on 11.10.1994, respondent No.2 did recruit fresh adhoc employees on the same posts which were earlier held by the ¹⁸ applicants. Such fresh adhoc employees are respondents No.4 to 6 who are continuing to function as Peons on adhoc basis.

4. Shri C.Harishankar, learned counsel for the applicants submits that the action of respondent No.2 in terminating the services of the applicants and recruiting fresh adhoc

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employees in their place is bad in law, as laid down by the Hon'ble Supreme Court in State of Haryana and others vs. Piara Singh & ors (1992(3)SLJ Page 34).

The learned counsel also relies on the judgment in Union of India & Ors vs. N. Hargopal & Ors (AIR 1987 SC 1227).

5. The counsel submits that since the action of the respondents is patently illegal inasmuch as fresh adhoc employees have been recruited to replace the applicants who were themselves adhoc employees, it is violative of the settled law. He submits that each of the applicants had put in more than 206 days of work in two consecutive years and should, therefore, be entitled to be considered for regularisation rather than being terminated from their services. He also laid stress on the fact that the applicants were duly sponsored through the Employment Exchange and since their work was satisfactory, the action of the respondents was wholly arbitrary and unsustainable in law being violative of Articles 14 and 16 of the Constitution.
6. The respondents have filed a reply in which they have taken the stand that since the applicants were appointed on adhoc basis their tenure had come to an end ^{and as} as such there was no question of any order of termination as contended. They state that their services were not extended because they were no longer required. Later on, due to some adjustment of the employees, some vacancies arose in the organisation and accordingly after notification to the Employment Exchange

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and receiving some names from them, the persons who were found suitable were appointed on adhoc basis for a limited period. They had denied that their action is illegal or against the settled principles of law. Their contention is that the applicants are not Casual Workers to whom the guidelines of working for 206 days in two consecutive years for consideration of appointment as Casual Labourers will apply. Their stand is that the services of all the applicants were no longer required from 14.7.1994 and as such their adhoc appointments came to an end. Later on, when other vacancies arose, they were bound to write to the Employment Exchanges to sponsor candidates for filling up of such posts. Since the applicants were not sponsored by the Employment Exchange, they could not be appointed.

7. Shri K.C.D. Gangwani, learned counsel for the respondents had argued that the respondents No.4 to 6 had been appointed as a result of a later requisition sent to the Employment Exchange. As he was unable to furnish the dates of requisition at the time when the case was heard, one week's time was granted to him for this purpose. In pursuance to that order, (Placed on record) the respondents have furnished the details/as under:

- i) Employment Exchange sponsored the names on : 8.8.1994.
- ii) Interview on: 10.10.1995.
- iii) Joining on: 11.10.1995.

Gulab Singh left on 30.4.1995.
Hans Raj left on 30.4.1995.
Deshraj left on 7.1.1995. *

8. We have carefully considered the arguments of the learned counsel for both the parties and records in this case.

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9. The information furnished by the respondents only shows that the Employment Exchange sponsored the names of respondents No.4 to 6 on 8.9.94 and that they joined on 11.10.1995. However, it is not shown as to on when the respondents sent the requisition to the Employment Exchange against which the respondents No.4 to 6 were sponsored and later appointed. We, however, note that the respondents No.4 to 6 have left the services of the respondents, respondents 5 and 6 on 30.4.95 and respondent No.4 on 7.1.95.

10. The applicants had approached this Tribunal in O.A.No.1436 of 1994. That O.A. was dismissed on the ground that the applicants could not raise the grievance on apprehension that the respondents are going to recruit freshers.

11. It will be seen from the facts narrated above that the Employment Exchange had sponsored the names of respondents No.4 to 6 admittedly at the request of the respondents. The respondent No.2 has failed to show that the subsequent requisition made to the Employment Exchange against which the names of respondents No.4 to 6 were sponsored had been sent after the services of the applicants had been terminated.

12. In the facts and circumstances of the case it appears that the applicants services were terminated in order to accommodate fresh candidates who were also appointed on temporary ^{ad hoc} basis. This action of the respondents is not only arbitrary but illegal in the light of the decision of the

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Hon'ble Supreme Court in Piara Singh's case (Supra).

The official respondents have also failed to give any reasons why the applicants could not be considered alongwith respondents No.4 to 6 when they were in need of the services of adhoc peons at a later stage. However, the persons against whom the applicants had sought relief are themselves no longer in the service with the respondent No.2. Moreover they have not shown that their services are any longer required and since their adhoc employment has ceased in terms of their appointment letters on 14.7.1994 they do not have a right to continue in employment in that capacity. However, since the applicants had been sponsored by the Employment Exchange in 1993 and have worked with the respondents from 16.12.1993 to 14.7.1994, the OA is disposed of with the following directions

adhoc/temporary ^{arise}
In case any/vacancies of peons in future
the respondents shall consider their
appointments in preference to the respondents
No.4 to 6 and other freshers and outsiders
in accordance with the relevant rules/
instructions.

12. The O.A. is disposed of as above. The parties are left to bear their own costs.

R.K. Ahooja
(R.K. Ahooja)
Member (A)

Lakshmi Swaminathan
(Mrs. Lakshmi Swaminathan)
Member (J)

/SDS/

20/12/95