

2

**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH
NEW DELHI**

O.A. NO. 1021 of 1995

New Delhi this the 2nd day of June, 1995

HON'BLE SHRI JUSTICE S. C. MATHUR, CHAIRMAN
HON'BLE SHRI P. T. THIRUVENGADAM, MEMBER (A)

Surbir Singh S/O Jhabar Singh,
R/O B-32, Greater Kailash-I,
New Delhi - 110048. Applicant

(By Shri U. Srivastava, Advocate)

-versus-

1. National Capital Territory
of Delhi through the
Chief Secretary,
Delhi Administration,
Delhi.
2. The Chief Engineer,
Flood Control and Drainage
Division No. VI, I.S.B.T.,
Delhi.
3. The Ex-Engineer,
Flood Control & Drug Divn No.VI,
Govt. of Delhi, Gurmandi,
Delhi. Respondents

O R D E R (ORAL)

Shri Justice S. C. Mathur,

The applicant has prayed for quashing the order of termination of his services. He has also prayed for a direction to the respondents to absorb him in any other suitable job for which the applicant may be found fit.

2. The applicant's case is that he was appointed on daily wages as motor driver on 14.11.1984 and thereafter he was brought on the work charged establishment with effect from 5.7.1985. His services were terminated by order dated 31.3.1987. Against this

λ

termination, the applicant filed O.A. No. 541/87 in this Tribunal which was allowed by judgment and order dated 5.6.1990. The Tribunal while setting aside the order of termination directed thus -

"....The respondents shall reinstate the applicant in service on work charged Drivers and accommodate them in any of the vacancies available. If no vacancy is available, supernumerary posts should be created to accommodate them. Their services should be regularised in accordance with the scheme to be prepared by them pursuant to the judgment of the Supreme Court in Prakash Chand's case, mentioned above. The applicants should also be entitled to the minimum salary payable to a person regularly appointed as Motor Driver with effect from 1.11.1988."

In view of this judgment, the applicant was reinstated and his services have now been dispensed with by the impugned order dated 29.4.1995. The ground for dispensing with his services has been disclosed in the termination order as having been declared medically unfit due to colour blindness.

3. The learned counsel for the applicant has not disputed the fact that the applicant has been declared to be suffering from colour blindness. The learned counsel has, however, challenged the order of termination on the following grounds :-

- (1) opportunity of hearing has not been given to the applicant;

1

(2) copy of the medical report has not been given to the applicant; and

(3) the applicant was entitled to be adjusted against some other job.

3. Once it is admitted that the applicant is suffering from colour blindness, it will be an exercise in futility to require the respondents to give the applicant an opportunity of hearing. No useful purpose will also be served by requiring the respondents to supply copy of the medical report to the applicant. The applicant could himself get the colour blindness checked up by a consultant or medical practitioner. The applicant does not claim that he has consulted any medical authority who advised him in the negative.

4. In the Tribunal's order dated 24.7.1992 passed in O.A. No. 2029/90 - Ranjeet Singh vs. Union of India, direction was issued in the following terms :-

"After considering the contentions of both sides and in the facts and circumstances of the case, the application is disposed of with the direction to the respondents to consider appointing the applicant at any place where vacancies exist and in accordance with the relevant rules and instructions in a post suitable to persons who have been found fit for employment on C-II medical categorisation...."

The learned counsel has relied upon this observation for claiming that the applicant

could also have been adjusted on some other job. The requirement of this direction is that the adjustment shall be in accordance with the relevant rules and instructions. From the applicant's affidavit, it appears that he is aged about 37 years. The learned counsel has not cited before us the relevant rules under which the applicant is still not over-age for appointment to another post. In most cases, there are statutory rules for recruitment which prescribe eligibility qualifications including the age qualification. In the absence of any such rules produced before us, we are not inclined to issue a vague mandamus as suggested by the learned counsel.

5. In view of the above, the application lacks merit and is hereby dismissed in limine.

P. T. Thiruvengadam

(P. T. Thiruvengadam)
Member (A)

S. C. Mathur

(S. C. Mathur)
Chairman

2.6.95

/as/