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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A. No. 2043/96

New Delhi this the 27 Day of May 1998

Hon'ble Shri R.K. Ahooja, Member (A)

N.S. Chauhan,
S/o Late Shri Aman Singh Chauhan,
R/o House No. 561,
Mujpur, Shadpara,
Delhi.

Petitioner

(By Advocate: Mrs. Rani Chhabrea)

-Versus-

1. Union of India,
through its Secretary,
Ministry of Communication,
Department of Telecommunication,
Sanchar Bhawan,
New Delhi.
2. Sub-Divisional Engineer (Project),
Rampur Bushahr,
Distt. Simla,
Himachal Pradesh.
3. D.E.T (Project)
Rampur Bushahr,
Distt. Simla,
Himachal Pradesh.

Respondents

(By Advocate: Shri Rajeev Bansal)

ORDER

The applicant states that he had been engaged and asked to work as Clerk-cum-Typist with the respondent no. 3 from August 1995 to end of February 1996. Thereafter the respondents engaged another lady in his place and directed him to work as Chowkidar. However, in April 1996 he was altogether dis-engaged by an oral order. He claims that he was already in the status of a temporary employee having worked for more than 240 days and as such his services could not be terminated.

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2. The respondents in their reply have denied the claim of the applicant. They state that he had been engaged as a casual labour from August 1995 and continued as such only till 31.1.1996. Thereafter he did not come to work and absconded. Consequently they were obliged to engage a lady in his place. They say that the applicant did not put in the requisite period of engagement to qualify for temporary status. In any case according to the respondents, the project on which he had been initially engaged as a casual labourer has since been completed and therefore there is no further scope for re-engagement. The respondents have also raised preliminary objections regarding the territorial jurisdiction as the applicant is a resident of Himachal Pradesh and the cause of action has arisen in Rampur, Himachal Pradesh which is under the territorial jurisdiction of the Chandigarh Bench of this Tribunal.

3. I have considered the matter. Since the applicant is without a job and claims to be now residing in Delhi and has given his address in Delhi itself, I do not consider it necessary to go into the question of territorial jurisdiction. The applicant has produced some documentary evidence to show that he had been asked to collect certain cheques and material by the officers of respondent No. 2 on various dates between February 1996 to April 1996. This, according to him, goes to show that he was still working as a casual labourer with respondents during the relevant period. I find, however, that there is one crucial shortcoming in his case. In his rejoinder, he has admitted that he did not get the salary or renumeration for the period from 1st February 1996 to 30th April 1996. On the

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other hand, he did not mention anything about this in his main OA. In fact, there is no mention of it even in the relief sought for by him which reads as follows:

- b) to direct the respondents to take back the applicant in work immediately and confer him temporary status under the scheme known as Grant of Temporary stauts and Regularisation Scheme and allow him all the benefits and absorb him all the benefits and absorb him permanently in the Department as per the directions of the Hon'ble Court in the matter reported in 1988 (1) SCC.P
- c) to pass such other and/or further orders as this Hon'ble Court may deem fit and proper under the circumstances of the present case.

4. It would be a most unusual to say the least for the applicant not to have claimed the salary if the same had not been paid to him for full three months. This controverts his claim that he was working with the respondents for the period 1st February onward notwithstanding the documentary evidence produced by him to show that he was being assigned certain duties by the staff of respondent no. 2. Even if he ran some errands the same was obviously without his regular engagement since he was not on the pay rolls of respondent no. 2.

4. In these circumstances no other relief can be granted to him except to say that if further work becomes available and the respondent No. 2 decide to recruit casual labourers and if the applicant applies for the same, the respondent no. 2 will also consider the applicant with reference to the period of service already put in by him.

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giving him preference over freshers and outsiders. The applicant will, however, have no claim in relation to those who have been already engaged.

The O.A. is disposed of. There is no order as to costs.

~~R.K. Ahuja~~
(R.K. Ahuja)
Member(A)

Mittal