

(9)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 974/96 with
O.A. No. 744/96

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DATE OF DECISION 29/04/97

Rao Beer & Mahendra Singh ^{et al.} **Petitioner**

Shri A. K. Bhambhani

Advocate for the Petitioner(s)

versus

U.O.I. & others

Respondent

Shri Madhav Panikar

Advocate for the Respondent(s)

CORAM

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

The Hon'ble

1. To be referred to the Reporter ~~or not?~~ Yes

2. Whether it needs to be circulated to other Benches of the Tribunal?

Re
 (R. K. AttooJA)
 Member (A)

Central Administrative Tribunal, Principal Bench

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O.A.No.974/96
O.A.No.744/96

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

New Delhi, this 29th day of April, 1997

O.A.No.974/96:

Raj Bearer
s/o Shri Daryo Singh
r/o House No.487, Village Piraghadi
Delhi - 41. Applicant

(By Shri A.K.Bhardwaj, Advocate)

Vs.

Union of India through

1. The Secretary
Ministry of Rural Development
Department of Wasteland Development
National Wasteland Development Board
8th Floor, Paryavaran Bhawan
C.G.O.Complex, Lodi Road
New Delhi.
2. The Under Secretary
Govt. of India, Ministry of Rural Area
& Employment
Krishi Bhawan
New Delhi.
3. The Deputy Secretary
Govt. of India
Ministry of Rural Development
Department of Wasteland Development
NRO Building
G-Wing, Nirman Bhawan
New Delhi.
4. The Assistant Inspector General of Forests
Govt. of India
Department of Wasteland Development
Ministry of Rural Area and Employment
NRO Building, G-Wing, Nirman Bhawan
New Delhi - 110 011.
5. The Secretary
Department of Personnel & Training
North Block
New Delhi. Respondents

(By Shri Madhav Panikar, Advocate)

O.A.No.744/96:

1. Mahendra Singh
s/o Shri Sher Singh
r/o V & P.O.-Lohana

Tahsil Rewari
Distt. Rewari
Haryana.

(11)

2. Chiranjee Lal
s/o Shri Madari Singh
r/o 6 - Ashoka Road
New Delhi.
3. Vijay Vir
s/o Shri Ram Mohan
r/o V & P.O. Manesar
Distt. Gurgaon (Haryana) - 122 001.
4. Satyaveer Singh
s/o Shri Meer Singh
r/o V & P.O. Gurohli
Teh. & Distt. Rewari
Haryana.
5. Dharmender
s/o Shri Rama
r/o H. No.143,
Double Storey
Raghuvir Nagar
New Delhi - 110 027.

... Applicants

(By Shri A.K.Bhardwaj, Advocate)

Vs.

Union of India through

1. The Secretary
Ministry of Rural Development
Department of Wasteland Development
National Wasteland Development Board
8th Floor, Paryavaran Bhawan
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NBO Building
G-Wing, Nirman Bhawan
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4. The Assistant Inspector General of Forests
Govt. of India
Department of Wasteland Development
Ministry of Rural Area and Employment
NBO Building, G-Wing, Nirman Bhawan
New Delhi - 110 011.
5. The Secretary
Department of Personnel & Training
North Block
New Delhi.

... Respondents

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(By Shri Madhav Panikar, Advocate)

O R D E R

The issue involved in the two OAs being the same, both are disposed of by this common order:

O.A.No.974/96:

2. The applicant states that he was appointed as Casual Labour in the office of Respondent No.2. Thereafter he worked for more than 240 days in two consecutive years (1994-1995) continuously without any break. He thus became eligible for grant of temporary status and for regularisation. Two more casual labourers, namely, Shri Vinod Kumar and Lakshmi Sahoo were engaged as Casual Labourers when the services of the applicant were terminated w.e.f. 29.3.1996. The two aforementioned junior casual labourers are still continuing in the Department. Aggrieved by this position, he has come to the Tribunal seeking direction to the respondents to re-engage him and to confer upon him temporary status and to consider him for regularisation as Group 'D' employee.

3. The respondents in their reply state that the applicant was engaged in the Personal Section of the Ex-Minister of State for Wastelands Development at the pleasure of the then Minister on co-terminus basis w.e.f. 14.10.1993. On the Minister demitting office the services of the applicant were also disengaged. The respondents say that no seniority list of such casual labourers is maintained and since the services of the applicant were co-terminus with the office of the Minister of State, he has no right to be continued.

4. I have heard the learned counsel on both sides. The learned counsel for the respondents points out that the applicant had not been engaged through the Employment Exchange. As a matter of fact the applicant was appointed on the personal choice of the then Minister of State and as per practice such persons are retained only for the duration of the tenure of the Minister. The learned counsel for the applicant on the other hand submits that it is not necessary that a person must be sponsored by the Employment Exchange. Once he is engaged then he is to be treated like a casual labour just as those who are sponsored by the Employment Exchange. In this respect the learned counsel for the applicant cited the Judgment of a Division Bench of this Tribunal in Shri K.Jyothi Vasu Vs. Sub Divisional Officer, Telegraphs, Alathur and another, (1992)22 ATC 153. In this case it was held that persons not sponsored by the Employment Exchange acquire a prescriptive right at some point of time for regularisation.

5. I have carefully considered the arguments on both sides and I have also gone through the aforesaid Judgment. In that order, the Tribunal had concluded that departmental instructions about the Employment Exchange had been made only to prevent misuse of power. It was however noted that despite these instructions, the local authorities may find it necessary to engage casual labourers not sponsored by the Employment Exchanges or not registered there to do work. The engagement of casual labour not sponsored by the Employment Exchange cannot be frequent and such exceptional engagement becomes necessary when all approved casual labourers have

been employed and yet works remains to be done for the approved casual labourers have abandoned their work or additional works have arisen all of a sudden. In the present case no such explanation for engaging the applicant outside the sponsorship of Employment Exchange has been given.

6. In the case of The Excise Superintendent, Malkapatnam, Krishna District, Andhra Pradesh Vs. K.B.N.Visweshwara Rao & Others, JT 1996(9) SC 638 the Supreme Court has held that there should be equal opportunity in the matter of employment to all eligible candidates. Thus, while it would be mandatory to inform Employment Exchange, Department should also give advertisement in newspapers, etc. I do not therefore agree with the contentions of the learned counsel for the applicant that government employment can be afforded to anyone whether sponsored by Employment Exchange or not; the touch/~~touch~~ stone is that equal opportunity is given to all eligible candidates. When some body is appointed at the request of the Minister for his personal office, without following the procedure for selection, there is no equality of opportunity. If such appointment is justified on the ground that the Minister requires persons in his office because he has confidence or trust only in those persons then they can obviously ~~stay~~ only till the Minister holds office. Such persons cannot claim to be absorbed into the ranks of temporary or regular employees.

7. In the light of the above discussion, I hold that the appointment of the applicant was in special circumstances, having been made at the instance of the

Minister and was thus co-terminus with the tenure of the Minister holding the office. The Minister having demitted office the services of the applicant were likely to be dispensed with. In the light of the matter the OA stands dismissed. No costs.

O.A. No.744/96:

8. This OA has also been filed persons appointed at the instance of Minister's office. The issue involved is the same as that in OA No.974/96 and for the reasons mentioned therein, this OA is also dismissed.

R.K. Ahuja
(R.K. AHOOJA)
MEMBER(A)

/rao/