

Central Administrative Tribunal
Principal Bench
New Delhi

O.A. No. 2079/97

Decided on 11. 12.98

Shri V.S.Bisht

.... Applicant

(By Advocate: Dr. D.C. Vohra)

Versus

Union of India & Anr.

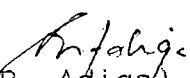
.... Respondents

(By Advocate: Shri K.C.Dewan)

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HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

1. To be referred to the Reporter or Not? YES
2. Whether to be circulated to other outlying benches of the Tribunal or not ? No.


(S.R. Adige)
Vice Chairman (A)

Central Administrative Tribunal
Principal Bench

O.A. No. 2079 of 1997

New Delhi, dated this the 11th December, 1998

HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Shri V.S. Bisht,
S/o Shri U.S. Bisht,
R/o RZ1-22, Mahavir Enclave,
New Delhi-110045.

.... Applicant

(By Advocate: Dr. D.C. Vohra)

Versus

1. Union of India through
the Secretary,
Ministry of Defence,
South Block,
New Delhi-110011.

2. Chief Construction Engineer (R&D) MP,
Defence Research & Dev. Orgn.,
Ministry of Defence,
West Block No.8, Wing 1,
First Floor, R.K. Puram,
New Delhi-110066.

.... Respondents.

(By Advocate: Shri K.C. Dewan)

O R D E R

BY HON'BLE MR. S.R. ADIGE, VICE CHAIRMAN (A)

Applicant impugns respondents' orders dated 31.7.97 (Ann. A/1) and seeks reinstatement and placement in the seniority list above his juniors.

2. Admittedly applicant was appointed as a casual helper vide respondents' letter dated 7.8.95 and his name finds mention at Sl. No.61 of D./O. Part II dated 20.11.96 (Ann. A/4). Applicant does not deny in any rejoinder, respondents' averments in their reply that he worked and was paid upto 29.11.96. After a gap of about 45 days applicant was appointed as a casual labourer afresh vide order dated 10.1.97 (Ann. II to reply) and he

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joined duty on 14.1.97 and was directed to report for duty at office of Chief Engineer (R&D), Nagpur. By Movement Order dated 18.2.97 (Ann. A/5) applicant was to proceed to Nagpur that day for Project Work and there is a certificate in the movement order, that applicant was expected to return to duty point in Delhi on completion of temporary duty. While working on the Project at Nagpur respondents issued impugned order dated 31.7.97 (Ann. A/1) which was communicated to applicant from Delhi by Fax that his services stood terminated w.e.f. 1.8.98, against which this O.A. has been filed.

3. I have heard both sides.

4. By respondents' own admission, applicant had worked with them as a casual labourer (helper) from 7.8.95 upto 20.11.96 and had thus acquired temporary status in terms of DP&T's O.M. dated 10.9.93 and various judicial pronouncements, which have laid down that even those ^{who} joined service after 1.9.93 and ^{have} completed the required length of continuous service of 240 (206 days in offices observing the 5 day week) would be eligible for grant of temporary status. Applicant had thus, by respondents' own averments, acquired temporary status during his service with respondents between 7.8.95 and 29.11.96, and his services could have been terminated only after giving him a month's notice in writing as per the Scheme circulated vide DP&T's O.M. dated 10.9.93. That legal position

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does not change merely because of the gap in the service put in by applicant between 29.11.96 and 14.1.97, and in fact respondents should not have treated his case as one of fresh appointment by issuing letter dated 10.1.77.

5. Furthermore, in the movement order issued by respondents dated 18.6.91 there is a certificate that applicant was expected to return to duty point in Delhi, upon completion of his temporary duty in Nagpur. Respondents by issuing the impugned termination order dated 31.7.97 terminating applicant's service w.e.f. 18.97 while he was in Nagpur, have acted in contravention of this certificate also.

6. Furthermore it is not respondents' contention that applicant was disengaged because of shortcomings in his performance.

7. In the result this O.A. succeeds and is allowed. The impugned order dated 31.7.97 is quashed and set aside. Respondents are directed to reinstate applicant within one month from the date of receipt of this order and place him at the proper position in the seniority list. Applicant shall not be entitled to back wages for the period he was out of work, but respondents should pay him costs which are assessed at Rs.1000/- (Rupees one thousand only).


(S.R. ADIGE)
VICE CHAIRMAN (A)

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