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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

O.A.No.2634/97

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

New Delhi, this the 20th day of February, 1998

Shri Vipin Chandra Joshi
s/o Shri B.C.Joshi
r/o 438 Pushap Vihar
Saket
New Delhi.

... Applicant

(By Shri H.C.Sharma, Advocate)

Vs.

Unon of India through
Secretary
Ministry of Non Conventional Energy Sources
C.G.O. Complex, Block - 14
Lodhi Road
New Delhi - 110 003.

... Respondent

(By Shri S. Mohd. Arif, Advocate)

O R D E R (Oral)

The applicant submits that he was appointed as Casual Labour w.e.f. 2.5.1994 after his name was sponsored by the Employment Exchange. He was granted temporary status also w.e.f. 27.8.1997. His grievance is that his services have been verbally terminated on a number of occasions. This lead to an earlier OA No.478/96 decided on 14.11.1996 and subsequently CP No.97/97 was also filed which was decided on 22.4.1997. He is now aggrieved that his services have been terminated again~~st~~ vide impunged order dated 21.10.1997, Annexure-A1, giving him one month's notice. He alleges that this has been done despite the fact that a junior person, Shri Ravinder Singh had been retained in servixe by the respondents. He also claims that a certificate has been given to the applicant by the Principal Private Secretary to the Secretary in the Ministry of Non Conventional Energy Sources that the applicant has worked in the Secretary's office during the month of November, 1997 though he has not been paid any wages for this period.

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2. The respondents have filed a reply. They state that services of the applicant had been terminated as no work was available for casual labour. They also deny that Shri Ravinder Singh was kept even after the services of applicant were dispensed with. In support they have also filed an additional affidavit affirming that the services of Shri Ravinder Singh were terminated w.e.f. 21.10.1997.

3. I have heard the counsel. The learned counsel for the applicant has pointed out that the certificate of the PPS to Secretary clearly shows that the applicants' services had not been dispensed with at the expiry of one month's notice. This would indicate that the work was available with the respondents. He also claims that Shri Ravinder Singh has filed his OTA claims not only for the November, but also for December, 1997. This also indicates that not only the junior was engaged in service but also that work was available with the respondents. He also cited the Judgment of Patna Bench of this Tribunal in OA No.560/95, decided on 17.9.1996 wherein it was held that when the respondents claim that no work is available then they should show as to how many posts have been abolished against which the aggrieved applicants had been working before termination of their services.

4. I have considered the matter carefully. If once the respondents state that no further work for casual labour is available with them they cannot be compelled to keep casual labour in engagement. If the allegation of the applicant that a junior person Shri Ravinder Singh had been kept in service even though the service of the applicant had been terminated, there would have been some basis for the applicant's grievance. In view of the additional affidavit filed by the respondents that the services of Shri Ravinder Singh were also dispensed with

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had been established

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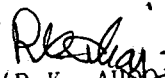
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even prior to the expiry of one month notice period in respect of the applicant that would not appear to be the case. Since the applicant was not working against any regular post, the ratio of the Judgment of this Tribunal in OA No.560/95 (Patna Bench) relied upon by the learned counsel for the applicant would also not be applicable.

5. In the circumstances of the matter, I dispose of this OA with a direction that the respondents will re-engage the applicant as and when work is available in preference to any outsider or junior. He will also be considered for regularisation thereafter in accordance with Scheme applicable to the Casual Labourers.

The OA is disposed of as above. No costs.


(R.K. AHUJA)
MEMBER (A)

/rao/