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CENTRAL ADMINISTRATIVE TRIBUNAL PRINCIPAL BENCH

OA No.2824/97

New Delhi: this the 5th day of October, 1998.

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

Shri Amit Bali,
S/o Shri Rakesh Bali,
R/o Rz- 33, Extension-II, Subhash Park,
New Uttam Nagar,
New Delhi. applicant.

(By Advocate: Shri O.P. Sharma)

Versus

1. Govt. of NCT of Delhi,
through Secretary, (Development),
Old Secretariat,
Delhi.
2. Chief Engineer,
Flood Control & Irrigation Department,
Govt. of NCT of Delhi,
ISBT, 4th Floor, Kashmere Gate,
Delhi-006 Respondents.

(None appeared)

ORDER

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

Applicant impugns the oral orders of termination dated 1.3.97 and seeks reinstatement along with back wages from 1.3.97 and subsequent regularisation.

2. Applicant contends that he was engaged on 17.2.95 as Junior Welder initially for a period of 6 months and after being given a break for one week, was appointed on regular basis in pay scale of Rs. 950-1500 on the post of Asstt. Welder, but was suddenly disengaged on 1.3.97 by oral orders against which he has approached the Tribunal.

3. Applicant's counsel was present when the case came up for hearing. None appeared for respondents. Applicant's counsel Shri Sharma was heard and orders were reserved.

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4. Applicant himself admits that he was initially appointed as Junior Welder for 6 months from 17.2.95 to 11.8.95 on Daily Wages basis. This is supported by the contents of the notings at Annexures R2 and R-3. No materials have been shown by applicant to establish that he continued to work with respondents from 11.8.95 to 1.3.96. Respondents themselves admit that applicant worked with them again, this time on adhoc basis from 1.3.96 to 28.2.97 in the pay scale of Rs.950-1500 which is also borne out by Annexures R-4 and R-5 and upon expiry of the adhoc sanction for the post, applicant was disengaged. Respondents in reply to para 4 (4) of the OA have stated that there is no regular post of Welder in the Division, and neither has any junior been engaged, nor any other incumbent appointed in applicant's place. This assertion has not been specifically denied by applicant in rejoinder.

5. The question of regularisation arises only if a regular post existed. In a catena of Hon'ble Supreme Court's judgments it has been held that the Tribunal has no jurisdiction to direct respondents to create post as this is a matter exclusively within the jurisdiction of the Executive. This OA is disposed of with a direction that if and when work of Welder becomes available with respondents and/or posts of Welder are created, upon applicant applying for the same, his case for engagement should be considered in preference to juniors and outsiders, and in accordance with rules and instructions.

6. The OA is disposed of in terms of para 5 above. No costs. In the facts and circumstances of the case MA (unlisted) filed vide filing No.9087 dated 7.9.98 by respondents' counsel praying for rehearing on the

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ground that he could not appear to assist the Court when the case came up for hearing on 3.9.98, is rejected.

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

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