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Central Administrative Tribunal
Principal Bench: New Delhi

OA 342/97

New Delhi this the 17th day of December 1997

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

Sh. Azad Singh
S/o Sh. Bhay Ram
R/o WZ-138 Village Dusghara
Tadapur
New Delhi.

...Applicant.

(By advocate: Sh. Yogesh Sharma)

Versus

UNION OF INDIA THROUGH

1. Secretary
Ministry of Urban Development
New Delhi.
2. Executive Engineer
CPWD, Pusa Farms, C.D.IV
Pusa Institute
New Delhi.
3. The Supdtg. Engineer
Delhi Central Circle No.IX
C.P.W.D. New Delhi.

...Respondents.

(By advocate: Mr K.C.D.Gangwani)

O R D E R (oral)

By Mr R.K.Ahooja, Member (A)

Applicant who was engaged as casual labour in 1981 and worked till 1986 was disengaged by the respondents. He thereafter made representations to the respondents and failing to obtain any response, came before this Tribunal in OA 2138/91 which was disposed of by Tribunal's order dated 7.8.92 with the following directions:

"In view of the above, the application is disposed of with the direction to the respondents to engage the applicant as casual labour after verifying whether he had longer period of service than Sh. Ram Niwas Yadav who has been re-engaged by them in pursuant to the judgement of the Tribunal dated 11.1.1991 in OA 291/89, as claimed by the applicant. They shall do so as expeditiously as possible and preferably within a period of three months from the date of receipt of this order."

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2. On the basis of these directions, the applicant was re-engaged on 3.8.1993 and is still continuing as casual labourer with the respondents.. His grievance is that though the respondents have decided to regularise all the casual labourers who were engaged upto 19.11.1985, the applicant has been left out.

3. The respondents in their reply have stated that the applicant is not entitled to the benefit of the orders of regularisation as his services had been dis-engaged on 27.5.1984 and he was re-engaged only on 3.8.1993. As he had not been regularly in engagement from 1985 onwards, his services cannot be regularised.

4. I have heard learned counsel. Sh. Yogesh Sharma, learned counsel for the applicant has pointed out that the orders of the Tribunal in OA 2138/91 indicate that the applicant was entitled to be retained in engagement as persons junior to him and freshers had been brought in replacement. Since the termination of his engagement in 1985 was not right and the Tribunal had held that he had a right to be continued in service in preference to freshers, he is also entitled to be continued as per the new Scheme for regularisation.

5. I have considered the matter but I am unable to agree with the learned counsel. It is a fact that the applicant was not in service from 1985 to 1991 on his own admission. It is correct that he came before this Tribunal in 1991 and obtained the direction that in case the ~~respondents~~ applicant found that any person with lesser length of

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has been retained
service, then the applicant should also be engaged in service. However, no direction was given that he should be reinstated with the benefit of past seniority.

5. In these circumstances, he has to be treated as having a break in engagement from 1985 to 1992 and if the new Scheme requires that he should have been continued in service from 1985 to date, then obviously he does not come within the purview of that Scheme.

6. In the light of above discussion, the OA is dismissed.

R. K. Ahooja
(R.K.Ahooja)
Member (A)

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