

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No. 34 of 1997

New Delhi, this the 7th day of January, 1998.

Hon'ble Mr. N. Sahu, Member (A)

Amar Singh
S/o Shri Munshi Lal
R/o House No.C-588,
Awantika Rohini-I
Delhi- 110 085

...Applicant

(By Advocate : Mohd. Nayemuddin proxy
for Sh. Ashok Aggarwal)

Versus

1. Govt. of NCT of Delhi
though Chief Secretary
5, Shyam Nath Marg
Delhi - 110 054

2. The Medical Superintendent
Lok Nayak Jai Prakash Narayan
Hospital,
New Delhi

... Respondents

(By Advocate : Sh. Raj Singh)

ORDER (ORAL)

By Sh. N. Sahu, Member (A) -

The grievance in this OA is for a direction to the respondents to consider the applicant's case for re-employment as a Class-IV employee on a regular basis from the date of the appointment of his junior with all consequential benefits.

2. The applicant was employed with the respondents from 27.01.1988 to 31.12.1988 as a daily rated Nursing Orderly. His services were terminated w.e.f. 01.01.1989. The applicant had filed a copy of the certificate allegedly issued by Dr. S. Thirupuram, Head of Neonatal Unit, LNJP Hospital, New Delhi wherein he mentioned total attendance of the applicant as 282 days. This certificate mentions the

attendance from February, 1988 to December, 1988 but the last entry is vague. A number of casual labourers amongst whom the applicant was one, filed OA-2013/89 entitled as Prem Singh & Ors. Vs. Delhi Administration & Anr. This was disposed of on 05.06.1990 and certain directions were given. One of the directions is for preparation of a Scheme for regularisation and absorption of daily wage employees engaged by the hospital authorities.

(2)

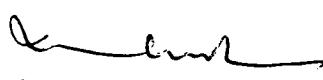
3. Sh. Raj Singh, learned counsel for Respondents submitted that except the applicant, all others who prayed relief and those applicants who have completed 240 days and fulfilled other conditions prescribed in the Scheme have been regularised. In respect of the applicant, it is stated that he completed only 219 days from January, 1988 to December, 1988 and only 73 days from February, 1989 to October, 1989. Further, during February 1990, he completed only 11 days. The original Daily Wagers Attendance Register, whose authenticity is certified in a preamble page, has been produced. At page 9 of the said Register for the year 1988, the applicant was stated to have served for 219 days and 84 days in the next year. Thus, according to the learned counsel for respondents, the applicant had not completed 240 days in any year, and therefore, he is not entitled to the benefits of the Scheme. In this connection, learned counsel for the ~~Respondent~~ has drawn my attention to a decision of the Supreme Court in the Civil Appeal No.835/95 - Union of India & Ors. Vs. Ram Niwas & Ors. pronounced on 03.04.1997. The Supreme Court set aside the order of the Tribunal in that case granting,

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regularisation, although the prescribed period of 240 days was not completed. The Supreme Court held that regularisation can be considered only when those in ad-hoc service are eligible and are qualified and have continued in service satisfactorily for long periods. (2)

4. After going through the pleadings, I am satisfied that the applicant has not completed the prescribed period and, therefore, cannot succeed in this OA. Learned counsel for the applicant has also brought to my notice another OA-294/97 filed by one Saran Kumar, who was also a party in OA-2013/89 decided on 05.06.1990. This Saran Kumar also did not complete 240 days although he claimed to complete 245 days. There also the applicants relied on a certificate whereas the respondents have relied on their attendance register. I am of the view that the Register seems to be a contemporaneous document which certifies the contents as well as the authenticity of the calculations made. I shall give due weightage to the Register and I am unable to accede to the request made in this OA. However, if the respondents are considering any vacancy for any casual labourer in the entire hospital administration at any time, the applicant shall get priority over any fresher or any outsider and shall be considered according to his seniority and past service as a casual labourer.

5. With these observations and directions, OA is disposed of. No costs.


(N. Sahu)
Member (A)

/Kant/