

Central Administrative Tribunal
Principal Bench: New Delhi

OA No. 2332/94

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New Delhi this the 22 day of January 1997.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr K.Muthukumar, Member (A)

Mukesh Kumar
Son of Shri Satya Dev
R/o Village & P.O. Suhehda
Delhi.

...Applicant.

(By advocate: Shri C.B.Verma)

Versus

1. Union of India through
Lt. Governor of Delhi.
2. Govt. of NCT of Delhi
Through its Chief Secretary
5, Sham Nath Marg
Delhi.
3. Director of Employment
Govt. of NCT of Delhi
2, Battery Lane, Delhi.

...Respondents.

(By advocate: Shri Jog Singh)

O R D E R

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

This application was heard alongwith OA Nos.2096, 2108, 2331, 2095 , 2471, 2472, 2525, 2526. 2582 of 1994, 39, 217, 345 and 1429 of 1995 as the background in which the services of the applicants in these cases were dispensed with was identical and as common question of law and facts was involved. All these applications refer to discontinuation of services of Class-IV employees under the Directorate of Employment on ad-hoc basis during a particular time. However, as each of the case presents its own special features, we find that it is more convenient to dispose of the applications individually though heard together.

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This application is directed against the order dated 4.8.94 by which the applicant's services as peon were discontinued with immediate effect on the ground that it was found that the appointment of the applicant as peon was erraneous, in excess of sanctioned strength and irregular. The facts are as follows:

2. The applicant was said to have been selected for appointment to the post of peon under the Directorate of Employment. He received an offer of appointment on 21.9.93 for the post of peon on temporary and ad-hoc basis and he joined the post on 21.9.93. While he was working so, the impugned order was passed. It is alleged in the application that though some of the persons similary appointed have also been removed from service, 7 persons are still retained. The applicant claims that he has not been paid any wages for his services for 11 months when he performed his duties. The termination of his services without even giving him a notice is illegal, arbitrary and violative of Article 311 (2) of the Constitution of India, as also Articles 14 & 16 of the Constitution, according to the applicant. He has prayed for the following reliefs:

- (i) Call for the records of the respondent No.3 on which the impugned order is based for perusal of the Hon'ble Tribunal;
- (ii) To quash the impugned order dated 4.8.94 made by the respondent No.3.
- (iii) Issue directions/orders to the respondents to treat the applicant in service as if he was not removed through the impugned order;
- (iv) Issue appropriate orders to the respondents to appoint the applicant on regular basis in the grade of Rs. 750-940 for which he was selected and appointed temporarily;
- (v) Issue appropriate orders to the respondents to pay all the emoluments of the petitioner for his service from 21.9.93 to 14.8.93 and thereafter till date as if the applicant continued in service but for the impugned order.

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3. Respondents in their reply have contended that on a probe into the appointments made by the then Joint Director during 1992-93, it was found that the appointments including that of the applicant were made irregularly, illegally and with ulterior motives and violating the recruitment rules. Therefore, it was decided to discontinue such appointments. It has also been contended that as there was no sanctioned post at Employment Exchange at Nagloi, the applicant could not be paid salary from 2.9.93 to 4.8.94. As the applicant was erraneously and illegally appointed only as a stop gap arrangement on ad-hoc basis, his services could be terminated without notice and, therefore, the respondents contend that the applicant is not entitled to any relief, contend the respondents.

4. Having heard the learned counsel on either side and having perused the records as also the file made available for our perusal, we are of the considered view that there is no scope for judicial intervention in regard to the discontinuance of the services of the applicant. We find that the decision was bonafide. Even otherwise, as the applicant was appointed only on ad-hoc basis as a stop-gap arrangement, discontinuance of this arrangement when there was no vacancy cannot be faulted. Though we do not find fault with the discontinuance of the services of the applicant, we are of the considered view that denial to the applicaant of his wages for his services from 2.9.93 to 4.8.94 for the reason that there was no sanctioned post is unjustified as admittedly the applicant has performed duties during the period.

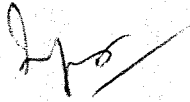
5. In the result, the prayer for the applicant for setting aside the order of discontinuance and directing the respondents to treat the applicant to have continued in service is disallowed. However, the respodnents are directed to pay to the applicant pay

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and allowances for the period from 2.9.93 to 4.8.94 within a period of 2 months from the date of receipt of this order. We also direct that if ultimately as a result of the investigation it is found that the appointment of the applicant was not irregular or vitiated, the respondents shall consider the resumption of his services if the need to continue ad-hoc appointment is there.

No order as to costs.



(K.Muthukumar)
Member (A)



(A.V.Haridasan)
Vice Chairman (J)

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