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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH, NEW DELHI.

OA.No.728/94

Dated this the 25th of January, 1995.

Shri B.N. Dhoundiyal, Hon. Member(A)

Dr. A. Vedavalli, Hon. Member(J)

Kuldip Singh,  
S/o Shri Charan Singh,  
Quarter No.8-B, Police Station,  
Subji Mandi, Delhi 110 007.

...Applicant

By Advocate: Shri A.K. Bhardwaj.

versus

Union of India through

1. The Secretary,  
Ministry of Defence,  
South Block,  
New Delhi.
2. The Deputy Director General,  
Military Farms,  
QMG's Branch,  
Army Headquarters,  
West Block-III, R.K.Puram,  
New Delhi.
3. The Officer-in-Charge,  
Military Farms,  
Meerut Cantt.-250 001.

...Respondents

By Advocate: Shri M.L. Verma.

O R D E R (Oral)  
(By Shri B.N. Dhoundiyal)

The applicant claims that he was employed as Clerk-cum-Typist in Military Farms in Meerut Camp in July 1982 and worked continuously in various branches of Military Farms till 31.8.92 without any break. His services were terminated on 1.9.92 but he was paid wages only till 25.8.92. The vacancies against which he was appointed was reserved for Scheduled Caste and the respondents could have considered his case as he belongs to reserved category. He prays for a direction to the respondents to reinstate him and to regularise his services as Clerk-cum-Typist as also a direction

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for payment of salary and allowances as paid to regularly employed Clerk-cum-Typists with arrears of pay and allowances.

2. In the counter filed by the respondents, the main averments are these:-

The applicant worked as casual mazdoor in the Military Farm and left his service not wanting to be selected and employed as regular Mazdoor (Farm Hand, Group 'D'). He did not report for duty after 24.8.92, that is for the past twenty months. He was not sponsored by the Employment Exchange as a Scheduled Caste candidate, and as such, he was not entitled to be appointed against any scheduled caste vacancy. They have also filed copies of muster roll (Annexure P-IV and P-V) to prove that the applicant was employed only as casual mazdoor. The civilian clerks are recruited in accordance with the prescribed procedure by calling candidates from All India Basis to the Central Employment Exchange and by holding written screening test in various centres through<sup>out</sup> India. No one has the authority to short circuit this procedure on simply appointing clerks on daily wages. They have also mentioned that the applicant appeared twice for selection as LDC, but was not found fit.

3. We have gone through the records of the case and heard the learned counsel for the parties.

4. It is clear that initially the requisition was sent to the employment exchange for recruitment of Mazdoors and it appears from the certificate given by Col. Avtar Singh (Annexure-2) that for sometime since

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Ist August 1991, he had worked as Typing-cum-Clerk. Where recruitment rules provide for a certain procedure to be followed, any appointments made in violation of that procedure do not give any right to people, who are thus employed. On the other hand, according to admission of the respondents themselves, the applicant had worked as Mazdoor for over 5 years. Even though he has declined to accept the regular post of Farm Hand vide his application dated 27.1.90, in the interest of justice, he should be given another chance for such regularisation. The fact that he is regularised as a Farm Hand should not preclude his right to be considered to be engaged as Typing-cum-Clerk as and when vacancies occur. However, regularisation in Group 'C' post should only be done in accordance with Rules and for this purpose, the applicant may be given atleast 2 chances to compete with others. In case, the applicant presents himself for reengagement as Farm Hand, the respondents shall consider appointing him.

5. The OA is disposed of, with the above observations. No costs.

*A. Vedavalli*

(Dr. A. Vedavalli)  
Member(J)

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*B.N. Dhoundiyal*

(B.N. Dhoundiyal)  
Member(A)