

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

(A)

MA Nos. 2204 and 1507 of 1994 In
OA No.1032 of 1994

New Delhi this the 25th day of August, 1994

Mr. Justice S.K. Dhaon, Acting Chairman
Mr. B.N. Dhoundiyal, Member

1. Shri Gainda Singh
R/o House No.16, Sector 11,
near W/9, Noida,
U.P.
2. Nandan Singh Rawat
R/o K-17/1, West Ghonda,
K-Block, Gali No.4,
Shahdara,
Delhi-110053.
3. Shri Suresh Kumar Chauhan,
R/o G-31, Sector 27,
Noida, U.P.Applicants

By Advocate Shri V.P. Trikha

Versus

1. Director General,
Employees State Insurance Corporation,
Kotla Road,
New Delhi-110002.
2. Director Medical,
Employees State Insurance Hospital
Complex,
Basai Darapur,
Ring Road,
Delhi-110015.
3. Medical Superintendent,
E.S.I. Hospital,
E.S.I. Hospital Complex,
Basai Darapur,
Ring Road,
Delhi-110015.
4. Director,
Employees State Insurance Corporation
Hospital,
Sector 24,
Noida, U.P.Respondents

By Advocate Shri G.R. Nayyar

ORDER (ORAL)

Mr. Justice S.K. Dhaon, Acting Chairman

Two grievances have made in this application. The first is that some time in July, 1992 the services of the applicants were terminated by an oral order and without complying with the provisions of Section 25 F of the Industrial Disputes Act, 1947.

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The second is that the respondents have not considered the cases of the regularisation of the applicants in accordance with the directions given by this Tribunal on 1.2.1993 in OA No.442 of 1992. We shall deal with these submissions in *seriatim*.

Regarding contention No.1

It appears that in OA No.442 of 1992, the applicant made the precise grievance as made now. It also appears that in the said O.A. the applicants did not raise the question that their services had been terminated in violation of provisions of Section 25 of the Act. This question might and ought too have been raised in OA No.442 of 1992. Therefore, principles of constructive res judicata will be applicable and the applicants are not entitled to raise this plea now in the present O.A.

Regarding contention No.2

The direction given by this Tribunal in its order dated 1.2.1993 is that the respondents may regularise as many as applicants as possible in accordance with the vacancies available and in accordance with the merit as found by the Selection Board which interviewed them.

2. In the counter-affidavit filed it is asserted that no less than 25 casual workers were considered by the Selection Board and 14 of them were found fit by that Board. However, the applicants were not found fit by that Board. It is emphasised by the counsel appearing for the applicants that the direction of this Tribunal was that if there were vacancies and till those vacancies were filled up, the respondents were bound to regularise the services of the casual workers. This, in our opinion, is not a correct reading of the judgment. The very purpose of constituting a Selection Board is defeated

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if such an argument is accepted. No allegation of mala fides against any member of the Board has been made. It is not contended that the Board acted perversely in not finding the applicants fit. In these proceedings we are not sitting as a court of appeal over the decision of the Board. We have only to find out whether the Board acted fairly while coming to its decision. Neither any unfairness has been alleged nor the same is discernible. No interference is called for with the decision of the Board.

3. Having regard to the facts and circumstances of the instant case, we direct the respondents to give to the applicants a second chance to appear before the relevant Board. If the Board finds them fit, the services of the applicants shall be regularised in accordance with law.

4. With these directions, this O.A. is disposed of finally but without any order as to costs.

B.N.Dhundiyal
(B.N. DHUNDIYAL)
MEMBER (A)

S.K.Dhaon
(S.K. DHAON)
ACTING CHAIRMAN

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