

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH,
NEW DELHI.

O.A.No.1796/94

New Delhi : April 25, 1995.

(8)

HON'BLE MR. J.P.SHARMA, MEMBER (J)

HON'BLE MR. S.R.ADIGE, MEMBER (A).

Shri Soran Singh,
s/o Shri Chokey Lal,
r/o K-161, Clive Square,
Kali Bari Marg,
New Delhi - 110 001.Applicant.
By Advocate Shri K.P.Dohare.

Versus

1. Union of India through
the Secretary to the
Govt. of India,
Ministry of Labour,
Shram Shakti Bhawan,
New Delhi.

2. Director General,
Directorate General of Employment &
Training,
Ministry of Labour,
Shram Shakti Bhawan,
New Delhi.Respondents.

By Advocate Shri Madhav Panikar.

JUDGMENT

By Hon'ble Mr. S.R.Adige, Member (A)

In this application, Shri Soran Singh has sought a direction to the respondents to consider him for appointment against any Group 'D' post immediately, and if there is no vacancy at present to consider him for appointment in Group 'D' against a future vacancy. He has also sought refund of Rs.349/- deducted allegedly on account of artificial breaks and Rs.600/- as payment of annual increments together with interest @ 24% p.a. thereon.

2. The applicant contends that he was appointed as Safaiwala on purely temporary basis in the pay scale of Rs.750-940 w.e.f. 24.10.91 upto 2.11.92 or till a regular incumbent joined duty.

(A)

(9)

whichever was earlier, after necessary selection for which he was called to appear for viva-voce test vide letter dated 15.10.91 (Annexure-A2) and appointment letter dated 23.10.91(Annexure-A1). Thereafter, his services were extended every three months with artificial breaks right upto 26.5.94 when they were suddenly terminated without notice.

3. The respondents state in their reply that the applicant was appointed w.e.f. 24.10.91 as Safaiwala on a purely adhoc basis against the resultant vacancy of one Shri Bannu Lal who was suspended. The applicant's services were extended on purely adhoc basis for three months at a time with a day break in between. As a result of the revocation of Shri Bannu Lal's suspension orders, and his reinstatement, the applicant's services had to be terminated w.e.f. 26.5.94. The respondents state that there is no other vacancy of Khalasi/Peon in Group 'D' against which the applicant can be adjusted.

4. In so far as claim for wages for breaks in service is concerned, applicant's counsel Shri Dohare has relied upon Bhagwan Dass Vs. State of Haryana-AIR 1987 SC 2049 as well as Mrs. Mariam KoshiVs. UOI & others -SLJ 1988 (4) CAT Calcutta 1020, whereby it has been held that such artificial break is illegal, and the employee is entitled to get full pay and allowances etc. for such artificial breaks. The respondents have also not produced a copy of the Attendance Register to show that the applicant had not put in duties on the dates these artificial breaks were given between one period of engagement and the other. Under the circumstances, the applicant is entitled to refund of ~~money~~ ^{money} - deducted on account of

artificial breaks given in his service.

5. In so far as the increments are concerned, it is clear that the applicant was appointed on a purely temporary basis for a specified period of three months at a time or till a regular incumbent joined duty whichever was earlier. This, however, was made consequent to suspension of a regular incumbent, who held a lien on that post and consequent upon the revocation of suspension orders and reinstatement of a regular incumbent, the applicant's services had to be terminated.

6. In view of this situation, the question of granting increments to the applicant whose appointment was purely adhoc and contingent upon his continuance only till a regular incumbent was appointed, does not arise and is hence rejected.

7. In so far as his consideration for appointment to Group 'D' post is concerned, the respondents have stated that no Group 'D' post is vacant at present. However, if and when a vacancy in Group 'D8' category arises in the Office of Respondent No.2, the case of the applicant for appointment should also be considered strictly in accordance with rules, but while doing so, weightage may be given to the applicant's previous experience as Safaiwala in that Office.

8. This O.A. succeeds and is allowed to the extent noted in paragraphs 4 and 7 above. No costs.

Infidge
(S.R.ADIKE)
MEMBER(A)

Sharma
(J.P.SHARMA)
MEMBER(J)