

CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH

Original Application No. 2137 of 2000
M.A.No.2547/2000

New Delhi, this the 8th day of June, 2001

HON'BLE MR.KULDIP SINGH, MEMBER(JUDL)

1. Shri Tikam Singh
S/o Shri Uday Partap Singh
2. Shri Vinod Kumar
S/o Shri Suraj Bhan
3. Shri Parvinder Kumar
S/o Shri Gurbalass
4. Shri Sunil Kumar
S/o Shri Parkash Bidla

Ex. Casual Labours
under Director (PCP)
Central Water Commission
Sewa Bhawan, R.K.Puram
New Delhi

-APPLICANTS

(By Advocate: Shri B.S.Mainee)

Versus

Union of India, through

1. The Chairman
Central Water Commission
Sewa Bhawan, R.K.Puram
New Delhi
2. The Director,
PCP Directorate
Central Water Commission
R.K.Puram
New Delhi

-RESPONDENTS

(By Advocate: Shri P.P.Ralhan, proxy for Shri J.B.Mudgil)

O R D E R

By Hon'ble Mr.Kuldip Singh, Member(Judl)

This is a joint O.A. filed by four applicants as they are aggrieved that their services have been terminated without any tenable reason although their juniors have been retained.

2. Facts, as alleged in the O.A., are that applicants 1 to 3 were engaged as casual labours in the

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month of April, 1992 whereas applicant no. 4 was initially engaged in April, 1993. Since then, all the applicants had been continuing under respondents till the date of their termination of service. It is pleaded that juniors have been retained in service and these applicants have been arbitrarily removed from service. Therefore, they have prayed for the following reliefs:

- "8.1 That this honourable Tribunal may be pleased to allow this application and quash the oral orders in terms of which services of the applicants have been terminated; and
- 8.2 That this honourable Tribunal may be further pleased to direct the Respondents to reinstate the applicants at their original position with all consequential benefits."

3. The O.A. is being contested by respondents. They have pleaded that applicants have been terminated from service because of indiscipline on their part. The incident about which indiscipline has been alleged against the applicants is that on 10.4.99, there was an annual function which was to be celebrated in the department for which preparations were going on from the previous day i.e. 9.4.99 and these applicants were found in the office complex after their duty hours on 9.4.99 despite the fact that they had finished their duty at 6.00PM. It is alleged that on 9.4.99, the applicants did not leave the office complex till 7.30PM even on the request of officer-in-charge who was supervising the erection of tents etc. At about 7.00PM on 9.4.99, after a fire had broken near the big tent which was being erected for the function, the applicants disappeared from the site and were found quarrelling with the security

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personnel Shri Jagvir Singh and Shri Govind Singh in the office building at around 8.30PM. So they had been removed from service on the allegation of indiscipline on their part.

4. I have heard learned counsel for the parties and gone through the records.

5. The facts that the applicants have been working under respondents from 1992-93 has not been denied. The only allegation against the applicants is that on 9.4.99, even after the office hours, they were found loitering at the place where preparations for annual function were going on. Learned counsel for the applicants submitted that mere presence of the applicants at the site of function does not show that they were behaving in an indisciplined manner. As regards the allegation that applicants were found quarrelling with the security personnel Shri Jagvir Singh and Shri Govind Singh, it is stated that no complaint had been shown to the applicants and if at all there was any complaint, then the applicants were at least entitled to a show cause notice. Shri Mainee submitted that name of applicant no.1 appears at Sr.No.30 in the seniority list of casual labours and he is to be regularised in the near future and in order to defeat his claim for regularisation, the respondents have terminated his services.

6. On the contrary, learned counsel for the respondents referred to Annexure - I which is a report on fire which broke on 9.4.99 in the tent which was being

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erected for preparation of annual function. He stated that all the applicants had quarrelled with the security personnel and they had not left the office premises till 8.30PM on 9.4.99. Respondents have tried to link the presence of applicants at the site with the incident of breaking fire since they were all found under the influence of liquor on the said date. It is only because of this indiscipline that the applicants have been disengaged.

7. To my mind, the applicants who had been working under respondents right from 1992-93, should not have been removed in such a summary manner particularly so when their juniors were retained because no show cause notice etc. had ever been issued to the applicants to clarify as if the fire had broken in the tent because of some direct act on their part. I have gone through the report at Annexure-I of the counter reply which shows that on 9.4.99 around 7.00PM, suddenly a fire had broken in which a curtain of the tent was burnt however, no damage to Govt. property or loss of life had been caused because of the same. The report also does not suggest that the fire had broken because of some direct act on the part of any of the applicants. So mere presence at the site cannot be ascribed as an act of indiscipline on the part of applicants.

8. As regards the allegation of quarrel with security personnel, to that extent also, there is no complaint on behalf of those security personnel nor there is any medical examination which may show that these applicants were under the influence of liquor. Besides

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that, no show cause notice had been issued to the applicants before they had been disengaged and there is no denial that work is not available with the respondents. There is also no denial to the effect that applicant no.1 who is at Sr.No.1 of the seniority list of casual labourers, was to be regularised in due course of time.

9. Under these circumstances, I feel that this OA deserves to be allowed. Accordingly I allow this O.A. and quash the oral order of termination with a direction to respondents to re-engage the applicants in preference to juniors and freshers. However the applicants shall not be paid salary for the period they have not performed the duty. Applicants shall be re-engaged within a period of two months from the date of receipt of a copy of this order. No costs.


(KULDIP SINGH)
MEMBER(JUDL)

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