

IN THE CENTRAL ADMINISTRATIVE TRIBNAL

NEW DELHI

O.A. No. 347/2000, MA-427/2000
T.A. No.

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DATE OF DECISION 1.6.2000

Mukesh & Drs. Petitioner(s)

Sh. U. Srivastava Advocate for the
Petitioner(s)

Versus

U.O.I. & DRS. Respondents

Sh., VSR Krishna Advocate for the
Respondent(s)

CORAM:

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

1. Whether Reporters of local papers may be —
allowed to see the Judgement?
2. To be referred to the Reporter or not ? *yes*
3. Whether their Lordships wish to see the —
fair copy of the Judgement?
4. Whether it needs to be circulated to
other Benches of the Tribunal?

A.
(Dr. A. Vedavalli)
M(J)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA-347/2000
MA-427/2000

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New Delhi this the 1st day of June, 2000.

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

1. Sh. Mukesh Kumar,
S/o Sh. Sukha Ram,
R/o H.No.D-492,
Kidwai Nagar,
New Delhi-23.
2. Sh. Rajendra Kumar,
S/o Sh. Sheesh Pal,
R/o H-I, Shri Niwaspuri,
New Delhi.
3. Sh. Deepak,
S/o Sh. Rame,
R/o H.No. 47, Prya Darshini Colony ,
Jamuna Bazar, Hanuman Mandir,
New Delhi.
4. Sh. Vinod Kumar,
S/o Sh. Mam Chandra,
R/o H.No. 208, Block No.30,
Trilokpuri, New Delhi. Applicants

(through Sh. U. Srivastava, Advocate)

Versus

1. Union of India through
the Secretary,
Min. of Environment & Forests,
Govt. of India,
New Delhi.
2. The Director,
National Museum of Natural History,
Min. of Environment & Forests,
Barakhamba Road,
New Delhi-1.
3. The Administrative Officer,
National Museum of Natural History,
Barakhamba Road,
New Delhi-1. Respondents

(through Sh. VSR Krishna, Advocate)

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ORDER

Learned counsel for both the parties have been heard. Pleadings, material papers and documents placed on record have been perused.

2. MA-427/2000 filed under Section 4(5) of the Administrative Tribunals Act 1985 for joining together in one application is allowed.

3. The four applicants who were working as daily wage casual labourers under the respondents are aggrieved by the alleged verbal disengagement order passed against them on 23.02.2000.

4. The applicants who were sponsored through Employment Exchange were initially engaged by the respondents after their selection and after interview w.e.f. 07.12.99 to 06.03.2000 by an order dated 06.12.99 (Annex.-A). When they were still in service, the respondents sent a requisition to the Employment Exchange for sponsoring candidates. The Employment Exchange by their letter dated 21.02.2000 (Annex.A-1) sponsored the candidates mentioned in the said letter.

5. Learned counsel for the applicant Shri U.Srivastava submitted that the services of the applicants were terminated prematurely and without any reason by the aforesaid verbal termination order and that they are being replaced by a fresh set of daily agers. He contended that the above action of the

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respondents is illegal, arbitrary and unfair and deserves to be quashed and that the applicants should be considered for re-engagement in preference to juniors and outsiders with all consequential benefits.

6. Learned counsel for the respondents Shri V.S.R Krishna in his reply submitted that the services of the applicants during their engagement were not found satisfactory as per the note placed at Annexure-P to the counter. They were irregular in attendance and remained absent for different period without any notice or prior permission. He has also submitted that the applicants were informed about their illegal attendance and unsatisfactory performance verbally and later on only it was decided to disengage them and get new daily wagers. He contended that the term of engagement of the applicants ended on 06.03.2000 as per the order of the engagement dated 06.12.99 (Annex.-A) and that even otherwise their names can be struck off from the rolls if their work is unsatisfactory as per the terms of the said order. He further argued that in the above circumstances there is nothing illegal or arbitrary about the disengagement of the applicant. It was done strictly in terms of the aforesaid engagement as per his contentions. He prayed that the O.A. is, therefore, devoid of any merit and deserves to be dismissed with costs.

7. I have given my careful attention to this case. No doubt the concerned order dated 06.12.99

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(Annex.A) contains the period and terms of the engagement of the applicants and indicates the grounds on which their services can be terminated during the said period also. However, it is not known as to why a written termination order/disengagement order containing specific reasons for the same has not been passed by the respondents particularly when the said disengagement/termination was premature and when the engagement was done by a means of a written order. There is nothing on record to show the reasons as to why they have passed a verbal order of engagement. Moreover, there is no material to show that the applicants were ever given any warning or notice in writing regarding the alleged irregular attendance and unsatisfactory performance of the applicants. Nature of the alleged "unsatisfactory performance" of the applicant has also not been given in the counter specifically with supporting material. The verbal warning/notice said to have been given by the respondents is categorically denied by the applicants.

8. In the facts and circumstances of this case and in view of the foregoing discussion, I am of the view that the action of the respondents is highly arbitrary and unfair and cannot be sustained under the law. It is also evident that work is available since the Employment Exchange has sponsored certain names on the requisition sent by the respondents. Neither the applicants nor the respondents have given any information or material as to whether the selection of

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fresh candidates has already taken place or not. The candidates sponsored by the Employment Exchange have not been impleaded in this O.A. No adverse order can, therefore, be passed against their consideration for selection or engagement, without giving them an opportunity of being heard after notice.

9. In the above facts and circumstances and with a view to meet the ends of justice, the O.A. is disposed of with the following directions to the respondents:-

- (a) In case the selection and engagement of the fresh candidates sponsored by the Employment Exchange has not taken place already, the applicants should be given adequate opportunity to submit their applications for re-engagement.
- (b) In the event of submission of such an application by the applicants, they should be considered on their merits alongwith other eligible candidates and in accordance with the relevant rules and instructions and in preference to their juniors and freshers, giving due weightage to their past service under the respondents.
- (c) The respondents should not insist upon the said applicants being sponsored through the Employment Exchange.

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- (d) In case the selection and engagement of fresh candidates has already taken place, the respondents should consider the applicants for re-engagement whenever work becomes available in future in the light of the directions given above.

10. Interim order earlier granted stands vacated.

11. O.A. is disposed of accordingly. No costs.

A. Vedavalli

(Dr. A. Vedavalli)
Member(J)

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