

(11)

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA No.B62/1989

a
Date of decision: 19.09.1992.

Shri Rishi Ram

..Applicant

Versus

The Union of India through the Secretary
to the President of India & Another

..Respondents

For the Applicant

..Shri E.X. Joseph,
Counsel

For the Respondents

..Shri P.H. Ramchandani,
Sr. Counsel

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

The short point for consideration is whether the services of a Household Attendant of the Rashtrapati Bhavan, New Delhi, who had been initially appointed ~~xxx~~ on co-terminus basis and subsequently appointed on regular basis, could be terminated by giving him one month's notice treating him as a temporary employee.

2. We have gone through the records of the case and have heard the learned counsel of both parties. The applicant was appointed
- a*

as Household Attendant on an initial pay of Rs.199/- per month in the scale of Rs.196-232 on the Household Establishment of the President's Secretariat against an existing vacancy with effect from 27.07.1982. It was stipulated in the Office Order dated 09.08.1982 that the period of his appointment will be co-terminus with the term of the then President Shri Zail Singh. On 15.07.1987 the President Secretariat issued an Office Order to the effect that the applicant had been appointed as Household Attendant on regular basis in the Household Establishment on an initial pay of Rs.834/-per month in the scale of pay of Rs.750-940 with effect from 15.07.1987 until further orders. However, on 29.07.1987, the impugned order of termination of his services was passed. In the impugned order, the applicant has been discribed as a temporary Household Attendant. The order further stated that he would be entitled to claim one month's pay in lieu of the notice period of one month.

3. The case of the applicant before us is similar to that of Shri Hem Prakash who had also worked as Household Attendant in the President's Secretariat. His appointment was regularised by order dated 17.07.1987 before the term of the then President expired but by a subsequent order dated 29.07.1987, his services were terminated.

Shri Hem Prakash filed OA 1138/1987 in this Tribunal which was disposed of by judgment dated 29.01.1990. The Tribunal observed that a person appointed as a Household Attendant on co-terminus basis does not have any right to continue if the term of the President by whom he had been appointed has expired. If, in the meantime his services has been regularised, then his services will not be terminated with the term of the President. Accordingly, the Tribunal held that the order dated 29.07.1987 terminating the services of Shri Hem Prakash treating him to be a temporary Household Attendant in the President's Household was not legally tenable. The said order was set aside with the direction to the respondents to deem him to be in service as a regular Household

~

13

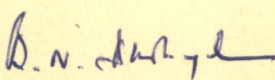
.3.

Attendant from 17.07.1987.

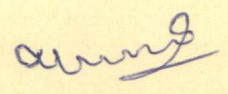
4. The respondents filed SLP (Civil) No.6341/1990 against the aforesaid judgment of the Tribunal which was disposed of by the Supreme Court by order dated 6.8.1990. The Learned Attorney General had produced before the Supreme Court a letter dated August 3, 1990 from the President's Secretariat wherein it had been stated that the establishment had no objection to allow Shri Hem Prakash to continue in the President's Household against a post of Silverman-cum-Masalchi drawing the same scale of pay as he was drawing prior to his termination from service. The Supreme Court ordered accordingly and observed further that Shri Hem Prakash would not be entitled to any salary for the period he was out of employment but he would be entitled to continuity of service for all other purposes.

5. During the hearing of the case, the learned counsel for both parties fairly agreed that the facts and circumstances of the case of the present applicant are similar to those of Shri Hem Prakash. Accordingly, the present application is disposed of with the direction to the respondents to allow the applicant to continue in the President's Household against the post of Household Attendant/Silverman-cum-Masalchi /any other similar post drawing the same scale of pay as he was drawing prior to the termination of his service by the impugned order dated 29.07.1987. In the facts and circumstances, the applicant would not be entitled to any salary for the period he was out of employment but he would be entitled to continuity of service for all other purposes. The respondents shall implement the above directions expeditiously and preferably within one month from the date of receipt of this order.

There will be no order as to costs.


(B.N. DHOUNDIYAL)
MEMBER (A)
18.09.1992

RKS
100992


(P.K. KARTHA)
VICE CHAIRMAN(J)
18.09.1992