

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 1858/89
T.A. No.

199

DATE OF DECISION 08.06.1990

<u>Shri Bhupinder Kumar</u>	Petitioner
<u>Shri R.S. Tomar</u>	Advocate for the Petitioner(s)
Versus	
<u>Delhi Administration & Another</u>	Respondent
<u>Mrs. Avnish Ahlawat</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN (J)

The Hon'ble Mr. D.K. CHAKRAVORTY, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *NO*
4. Whether it needs to be circulated to other Benches of the Tribunal? *NO*

(The judgment of the Bench delivered by Hon'ble
 Mr. D.K. Chakravorty, Administrative Member)

The grievance of the applicant, who has worked as Nursing Orderly in the Lok Nayak Jai Prakash Narain Hospital, New Delhi, is that his services have been terminate with effect from 15.9.1989 by verbal orders. In the present application filed under Section 19 of the Administrative Tribunals Act, 1985, the applicant has sought to quash the impugned order of termination and for a direction to the respondents to regularise him in the post of Nursing Orderly in which he had worked.

2. The applicant was initially appointed in the Hospital in 1986 on daily wage basis and he has worked thereafter with broken periods of service upto 17.6.1988. He was appointed on ad hoc basis with effect from 17.6.1988 as Nursing Orderly and he worked

as such till his services were terminated by the impugned order. He/contended that since 1986 he has worked for more than 240 days in a year and that he is entitled to the protection of Section 25 F of the Industrial Disputes Act, 1947. No notice of termination was given to him. No retrenchment compensation was paid to him.

3. The respondents have stated in their counter-affidavit that the applicant was initially appointed in the Hospital with effect from 2.8.1986 against a leave vacancy on daily wages from time to time. During 1988, it was decided to appoint candidates on ad hoc basis against vacant posts as a large number of posts were lying vacant. The applicant was appointed on ad hoc basis in one post of Nursing Orderly. In the meantime, regular incumbents have been selected and they have been allowed to join duty. In view of this, the services of the ad hoc candidates were terminated including that of the applicant.

4. We have carefully considered the rival contentions. The respondents have contended that the fact that the applicant has worked for more than 240 days continuously will not be a good ground for granting relief to him. In our opinion, the Hospital being an industry, the provisions of the Industrial Disputes Act will apply to the daily wage employees and Nursing Orderlies employed by them. In a similar matter (OA 2013/89 - Prem Singh & Others Vs. Delhi Administration & Another, which has been disposed of by our judgment dated 5th June, 1990), we have held that the termination of the services of the employees who have rendered

8

more than 240 days of service is not legally sustainable and that they should be reinstated in service forthwith. We are also not impressed by the contention of the learned counsel of the respondents that this Tribunal has no jurisdiction to grant relief under the provisions of the Industrial Disputes Act, 1947 for which a separate forum has been provided in the said Act. A similar contention had been rejected in this Tribunal's judgment dated 16.3.1990 in OA 2467/88 (Shri Basant Lal & 104 Others Vs. Union of India and Others) to which both of us are parties.

5. In the conspectus of the facts and circumstances of the present case, we quash the impugned order of termination of the applicant with effect from 15.9.1989. The respondents shall reinstate the applicant in service forthwith. In the facts and circumstances of the case, we do not, however, direct payment of any back wages to him. After reinstating him, the respondents shall regularise and absorb him in a Group 'D' post in accordance with a scheme prepared by them, as directed in our judgment dated 5.6.1990 in Prem Singh's case, referred to above.

6. The application is disposed of with the above directions. The parties will bear their own costs.

Declaratory
(D.K. CHAKRAVORTY)
MEMBER (A)

8/6/90

Concord
8/6/90
(P.K. KARTHA)
VICE CHAIRMAN (J)