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CENTRAL ADMINISTRATIVE TRIBUNAL: PRINCIPAL BENCH.

O.A. NO. 2341/89

New Delhi this the 27<sup>th</sup> May, 1994.

Shri S.R. Adige, Member(A).  
Smt Lakshmi Swaminathan, Member(J).

Shri Kishan Pal,  
S/o Shri Jugal Kishore,  
36/12, Pushpa Vihar,  
Sector-I, M.B. Road,  
Saket,  
New Delhi.

..Petitioner.

By Advocate Shri R. Srinivasan.

1. Union of India,  
through  
Ministry of Food Processing Industry,  
Transport Bhawan,  
Parliament Street,  
New Delhi.

2. The Joint Secretary,  
Ministry of Food Processing Industry,  
Krishi Bhawan,  
Dr. Rajendra Prasad Road,  
New Delhi.

3. The Under Secretary,  
Ministry of Food Processing Industry,  
Janpath Bhawan,  
New Delhi.

..Respondents.

By Advocate Shri M.K. Gupta.

ORDER

Shri S.R. Adige.

In this application, Shri Kishan Pal has prayed for setting aside the order of termination from service w.e.f. 13.9.1989 as illegal; for being treated as having been in continuous service with all consequential benefits since then; and for regularisation and seniority over and above his juniors.

2. The petitioner was appointed as a casual labourer on daily wages, on 28.10.1988, pursuant to being sponsored through Local Employment Exchange. He states that he continuously worked from 28.10.1988 to 13.9.1989 without any break whatsoever including Saturdays and Sundays, but his services were illegally terminated by an oral order dated 13.9.1989. He further states that

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he as well as others selected through the Employment Exchange on the same date, were appointed against regular vacancies. He also states that immediately before his illegal termination, some casual employees, similarly placed were regularised, while he was disengaged solely because he sought regularisation. He further alleges that persons not even sponsored through the Employment Exchange, have been regularised while he, who came through the Employment Exchange, and had put in more than 300 days continuous service and was among the seniormost, ~~was~~ <sup>not</sup> was not only regularised in spite of vacancies being available, but his services were illegally terminated orally.

3. In their affidavit, the respondents state that the applicant was engaged as a daily rated casual labourer for a particular work, for some time. When his services were no longer required, he was disengaged. They state that the applicant was not appointed against any post and deny that any other daily rated casual labourer was regularised. They also state that the applicant did not work for 300 days continuously as claimed by him, but worked only for 142 days, and therefore does not possess the minimum period of two years' continuous service as casual labourer necessary for regularisation in terms of DPAR's O.M. dated 21.3.79.

4. We notice that the applicant has not filed any document to show that he represented to the authorities against his allegedly illegal disengagement, or against the allegedly illegal regularisation of persons junior to him. Neither in the O.A. nor in the rejoinder, has the applicant named a single person junior to him, or not sponsored by the

Employment Exchange, who was regularised in preference to himself. Mere vague assertion that the persons not sponsored by the Employment Exchange were retained and even regularised, or that the persons junior to him were regularised, but his own services were terminated are insufficient for this application to succeed.

5. Shri Srinivasan has urged that as there is no specific denial in the respondents' reply that the persons not sponsored by the Employment Exchange or junior to the applicant have been retained, the respondents must be deemed to have admitted this position, but the initial onus is cast upon the applicant to establish the contents of his charge, at least by furnishing the names of the persons wrongly regularised, but this onus the applicant has failed to discharge. It is not possible for the Tribunal to conduct a roving inquiry into such vague, and unsubstantiated allegations.

6. Under the circumstances, we are not persuaded to believe that the applicant was singled out for any discriminatory treatment.

7. However, having regard to the length of service put in by the applicant with the respondents, we issue the following directions:

Subject to the availability of work and the applicant being otherwise suitable as of this date, the respondents should consider reengaging the applicant as a Casual Labourer on daily wages, in preference to juniors or outsiders or those with lesser length of service.

If after such consideration, the applicant is re-engaged, it will be open to him to represent for being granted temporary status, and the respondents will dispose of the said

representation by means of a reasoned order, in the light of extant rules and instructions or any scheme drawn up for according temporary status to casual labourers. While disposing of the said representation, the respondents will give credit for the number of days of service already put in by the applicant including the period between 28.10.88 and 13.9.89. Thereafter, it will also be open to the applicant to represent for regularisation and subject to the availability of <sup>the</sup> vacancies, the respondents will similarly dispose of the said representation by a reasoned order in the light of extant rules and instructions or any scheme drawn up for regularising the temporary employees. Compliance of these directions should be effected with the utmost expedition and each of the applicants' representations should be disposed of within three months of their being filed.

8. No costs.

*L. Swaminathan*

(L. SWAMINATHAN)  
Member (J)

*S. R. Adige*

(S. R. ADIGE)  
Member (A)

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