

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

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O.A. No. 2468/89
T.A. No.

199

DATE OF DECISION 5.10.1990.

Shri Ravi Kumar

xxxxxx Applicant

Petitioner

Shri S. K. Sharma

Advocate for the Respondent(s) Applicant

Versus

Commanding Officer, Air Force Respondents

Station & Others

Smt. Raj Kumari Chopra,

Advocate for the Respondent(s)

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

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? /M
4. Whether it needs to be circulated to other Benches of the Tribunal?

(Judgement of the Bench delivered by Hon'ble
Mr. P. K. Kartha, Vice-Chairman)

The applicant, who has worked as Anti-Malaria Lascar in the Office of the respondents, filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the respondents to withdraw the impugned order terminating his services, and for a declaration that the respondents shall not effect fresh recruitment of Anti-Malaria Lascars.

2. The application came up for admission on 12.12.1989 when an ad interim order was passed to the effect that the respondents shall not make any regular appointment to the posts of Anti Malaria Lascar. On 21.12.1989, the case again

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came for hearing when the learned counsel for the applicant stated that the respondents had taken steps to fill up the vacancies for the posts of Anti-Malaria Lascars, and that the applicant has preferential claim over outsiders. In view of this, the Tribunal directed that the respondents shall not make any appointment to the post of Anti-Malaria Lascar, ignoring the preferential claim of the applicant. The interim order passed has been continued thereafter till the case was heard finally at the admission stage itself and when orders were reserved thereon.

3. The case of the applicant in brief is that he was enrolled with the Employment Exchange in 1985, and that the respondents called him for an interview in 1988 and appointed him as Anti-Malaria Lascar in the pay-scale of Rs. 750-940. The order of appointment dated 26.4.1989 stipulated that the appointment was purely on temporary basis for the Malaria season only u.e.f. the date of appointment to 31.10.1989, and that on expiry of the term of engagement, his services will automatically terminate with effect from 1.11.1989 without any further notice, if he was not absorbed in any alternative post (vide Annexure A-5, p.17 of the paper-book).

4. The applicant reported for duty on 1.5.1989 and continued to work till his services were terminated on 31.10.1989 by the impugned order dated 25.9.1989 (vide Annexure A-6, p.18 of the paper-book).

5. The applicant has alleged that while terminating his services, one Anti-Malaria Lascar was allowed to

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continues in service. The respondents have stated in their counter-affidavit that one person referred to by the applicant, had to be retained in service by virtue of an interim order passed by this Tribunal in OA-2198/89.

6. The applicant has alleged that the respondents were going ahead with making fresh appointments to the post of Anti-Malaria Lascar without giving him an opportunity to continue in the post, despite his good performance.

7. The respondents have stated in their counter-affidavit that the applicant was appointed as Anti-Malaria Lascar for a limited period and for a particular purpose/ work which is of a seasonal nature. The period was for the Malaria season from 1.5.1989 to 31.10.1989. There is no sanction to retain Anti-Malaria Lascars beyond 31.10.1989. They have stated that all recruitments are made through the local Employment Exchange and the applicant was never denied any opportunity to offer his candidature through the Employment Exchange.

8. We have carefully gone through the records of the case and have heard the learned counsel for both the parties. It appears that the respondents engage every year Casual Labourers to fight the Malaria menace and the period of engagement every year is from May to October. The respondents do not have any regular posts of Anti-Malaria Lascars as such. Persons appointed to do such seasonal work, are not absorbed in the same post.

9. During the hearing, the learned counsel for the respondents brought to our notice a communication sent to the applicant on 19.4.1990 informing him about their proposal to engage him as a Lascar for anti-Malaria job for a period of six months w.e.f. 1.5.1990 to 31.10.1990. The applicant has also informed the respondents that he

is ready and willing to join duty as offered to him.

10. In the instant case, the applicant has not produced any record to indicate that there are regular posts of Lascar on a full-time basis. There is no allegation that any person junior to him has been retained in service while terminating his services. As the work is purely of a seasonal nature, we are of the opinion that the applicant is not entitled to any relief as prayed for in the application.

11. It appears from the counter-affidavit that the respondents had engaged eight Anti-Malaria Lascars, including the applicant, during the last season. In case, fresh appointments are to be made, justice and equity demand that those who worked as Lascars in the past, should also be considered for appointment. In case they are found suitable, they should be given preference to rank outsiders. In the case of those who have worked as Lascars in the past, the respondents shall also not insist on their being sponsored by the Employment Exchange, if the Employment Exchange had sponsored their names on earlier occasions. In the case of such persons, relaxation of age should also be given to the extent of the service rendered by them in the past as Lascars.

12. The application is disposed of with the aforesaid directions.

There will be no order as to costs.

D. K. Chakravorty
(D. K. Chakravorty)
Administrative Member

5/10/90

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5/10/90
(P. K. Kartha)
Vice-Chairman (Judl.)