

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No. 747/80

Date of Decision: 23.10.1992

Shri Madan Lal

Applicant

Vs.

Union of India & Ors.

Respondents.

For the applicant

Shri Rishikesh, Counsel.

For the respondents

Shri Mukul Dhawan, Counsel.

CORAM:

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

The Hon'ble Mr. B.N. DHOUNDIYAL, Member(A).

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*

2. To be referred to the Reporters, or not? *Yes*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAL)

The grievance of the applicant in this OA relates to his non-engagement in service, even though the applicant was interviewed and selected for the post of Chowkidar and was also medically examined in 1984.

2. Shri Madan Lal, the applicant is a member of Scheduled Caste community. His name was sponsored by the Employment Exchange against the vacancies of Khalasi/Chowkidar vide letter dated 9.2.84. He was interviewed and selected for the said post. He was referred for medical examination vide letter dated 16.4.84 from the Executive Engineer, Field Machinery Division, Flood Control Wing, Delhi Administration to Staff Surgeon, L.N.J.P.N. Hospital. When his appointment was not made even after the medical examination, he
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submitted his representations to the authorities on 21.10.86, 17.7.87, 4.3.88 and 11.8.88, which were not replied to. In his rejoinder, he has averred that four persons appointed after his selection are still continuing on daily wages basis since 1986.

3. The respondents have admitted that Shri Madan Lal was selected for the post of Khalasi/Chowkidar by the Staff Selection Board and was sent for medical examination to L.N.J.P.N. Hospital. However, he could not be given any appointment in view of the prohibition on recruitment of work charged staff imposed vide letter dated 28.4.84 from Superintending Engineer (NDC). The Executive Engineer (Respondent No.1) made a specific reference on 11.9.86 regarding engagement of selected candidates and on 23.9.86, the Superintendent Engineer reiterated that the posts of Chowkidar may not be filled up, as the Department was facing the problem of adjusting the surplus staff. The applicant was not selected for the nine clear vacancies though his name was included in the list of those approved for leave ~~selected~~ ^{by} reserve and other vacancies. No person ^h alongwith the applicant was allowed to join duty as certain other Divisions had reported surplus manpower. The respondents have also stated that the four persons working on daily wages basis belong to a different cadre and some of them have been working with the Department since 1982-83 i.e. much before the selection of the applicant. In pursuance of the orders of the Supreme Court in Writ Petition(Civil) No.253/88 dated 31.10.88, a scheme is already under preparation in the Department for regularisation of casual workers. In May 1989, it was assessed that 973 Beldars were surplus.

4. ————— We have heard the arguments addressed at the Bar and had perused the pleadings put forth by the learned counsel ^{Am}

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for both the parties and the documents placed on record. The applicant had not been selected against a clear vacancy and was only approved for leave reserve and future vacancies. The nine candidates who were selected for regular appointment would have a prior claim to appointment than those persons in the reserve list like the applicant. Even they could not be given appointment due to the vacancies being earmarked for engaging the surplus staff of other divisions. In view of the above facts, the only direction that this tribunal can give is to give the applicant preference over those not included in the panel for appointment against regular or casual vacancies. We order so accordingly.

5. There will be no order as to costs.

B. N. DHOUDIYAL
(B.N. DHOUDIYAL) 23/10/92

MEMBER(A)

P.K. KARTHA
(P.K. KARTHA) 23/10/92
VICE CHAIRMAN(J)

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22.10.1992