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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.1279/88

New Delhi this the 11th Day of November, 1993.

The Hon'ble Mr. N.V. Krishnan, Vice-Chairman
The Hon'ble Mr. B.S. Hegde, Member (J)

Nandan Singh, S/o Sh. Bhagat Singh,
Ex. Daily wage LDC, Chief Controller
of Accounts, Central Board
of Direct Taxes, 9th Floor,
Lok Nayak Bhawan, New Delhi ...Applicant

(By Advocate : None)

Versus

1. Union of India, Ministry
of Finance, The
Secretary, Deptt. of
Revenue.
2. Shri Ravi Kathpalia, Chief
Controller of Accounts, Central
Board of Direct Taxes
9th Floor, Lok Nayak Bhawan,
Khan Market, New Delhi-110003.
3. Shri S.L. Malik,
Accounts Officer
CCA/CBDT, 9th Floor
Lok Nayak Bhawan,
Khan Market,
New Delhi-110003.

(By Advocate : None)

O R D E R (ORAL)

(Hon'ble Mr. N.V. Krishnan)

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The applicant was a daily wage typist in the office of the respondent No.2. He states that he was engaged as a daily wage typist on 28.5.1954 by respondent No.2 and he was continued as such without break in service till 20.1.1988, when his service was terminated by an oral order of the third respondent - Chief Controller of Account, Central Board of Direct Taxes, New Delhi. It is contended in the O.A. that having

worked in the office of respondent No.2 for three years the applicant was sure of his service being regularised and that he would be considered for regular appointment against a Group 'D' post in accordance with the general instructions issued by the Government of India, Ministry of Home Affairs, Department of Personnel O.M. No.48014/19/84-Estt(D) dated 26.10.1984 (Annexure-D). It is stated that on 18.12.1987 the applicant gave an application (Annexure-B) to the second respondent requesting that he be considered for appointment against a regular post of peon.

2. Instead of receiving any favourable orders his service was terminated orally by the third respondent on 20.1.1988. Therefore, he filed this O.A. for a direction to quash the oral order dated 20.1.1988, terminating his service and direct the respondents to reinstate him with full back wages. It is urged that as the applicant had worked for 240 days each in 2 consecutive years counted from May, 1984, he had a right to be regularised from May, 1986.

3. The respondents have filed a reply in which it is admitted that the applicant was engaged as a casual daily wage typist. It is denied by the respondents that he had continued without any break. Particulars of the breaks are in in reply to para 6(2) of the O.A. which indicates the number of days on which he remained absent.

4. It is further contended that the applicant was engaged purely on a casual basis and his services were dispensed with when no more required. This is due to the fact that, in the meanwhile, the respondents received dossiers of two persons from the Staff Selection

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Commission on 22.12.1987 for regular appointment. Those candidates joined the office as Lower Division Clerk/Typist on 12.1.1988 and 21.1.1988. Further, one more nomination for LDC/Typist was also received from the Surplus Cell, Department of Personnel and Training on 11.1.1988. It is in view of the employment of these regular candidates that it was found that the service of the applicant was no longer required and hence it was dispensed with on 20.1.1988.

5. In regard to regularisation, the respondents state that the orders of the Department of Personnel cited as Annexure-D by the applicant relate only to regularisation in Group 'D' posts and not in Group 'C' posts. The applicant's request for regularisation in Group 'C' post was considered but as there were no orders in this regard by the Government, his service could not be regularised.

6. In so far as the absorption as Group 'D' employee is concerned, his case could not be considered because he had not worked as a daily wage casual worker but as a daily wage typist. The circular at Annexure-D would apply to cases where persons had worked as a casual labours. It is also stated that the applicant was offered engagement as a casual labourer but he did not report for duty. Respondents rely on Annexure R-II for this contention, Annexure R-II dated 5.5.1988 is a letter to the Chairman, Legal Audit and Advice Board informing him about the fact.

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7. The applicant has filed a rejoinder. His contention is that as he has rendered 240 days of service during each year, he was liable to be regularised on 26.5.1988 and the improvement in the staff position in December or January, 1988, therefore, has no relevance to termination of his service. He has denied being offered engagement as casual labour.

8. As neither the applicant nor his counsel Mrs. Pankaj Verma, nor any one representing the respondents, including the counsel Shri P.P. Khurana was present, we have perused the record and passing this order.

9. We have carefully considered the pleadings on record. The applicant has worked only as a casual typist. No orders of Government have been filed by the applicant relating to regularisation of daily wage employees engaged in Group-C posts. The Annexure-D office memorandum filed by the applicant dated 26.10.1984 of the Department of Personnel relates only to regularisation on Group 'D' posts of casual workers. It only clarifies that the eligibility for consideration for regularisation on Group 'D' posts is engagement for 240 days, depending on whether the office works for 6 days or 5 days in a week. This does not lend any support to the applicant's case. The applicant was not a casual worker. He was a daily wage typist doing the job of a Group 'C' post which was vacant.


10. In so far as the termination is concerned, the respondents have satisfactorily explained how the applicant's services were no longer required with the induction of some regularly selected LDC/Typist. It

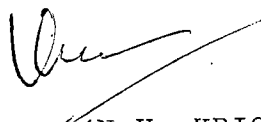
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was open to the applicant to compete in the selection held by the Staff Selection Commission.

11. It is also seen from Annexure R-II that the applicant refused engagement as a casual labour after his service as daily wage typist was terminated.

12. In the circumstances, we do not find any merit in this O.A. It is accordingly dismissed with no order as to costs.


(B.S. HEGDE)
Member(J)


(N.V. KRISHNAN)
Vice-Chairman

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