

**IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI**

199

O.A.NO. 152/88.

DATE OF DECISION 24.8.1993

<u>SHRI SANTU RAM,</u>	Petitioner
<u>SHRI B.B. RAVAL,</u>	Advocate for the Petitioner(s)
Versus	
<u>UNION OF INDIA & OTHERS,</u>	Respondent
	Advocate for the Respondent(s)

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The Hon'ble Mr. S. Gurusankaran, Member (A)

The Hon'ble Mr. B.S. Hegde, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

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[Delivered by Hon'ble Shri B.S. Hegde, Member (Judicial)]

The applicant has filed this application under Section
19 of the Administrative Tribunals Act, 1985 praying that he

may be allowed to continue his service and his service be
treated without any break and respondent No. 2 be refrained
from appointing any other person in place of the applicant.

In the interim relief, he has also prayed that the respondent
No. 2 and 3 be directed to allow the applicant to resume his
duty etc.

11

2. The counsel for the applicant, Shri B.B. Raval, submitted that there was a permanent vacancy of sweeper in the office of Liaison Officer, F-306, Curzon Road Hostel, Kasturba Gandhi Marg, New Delhi. The applicant visited the said office and contacted the then Liaison Officer, Shri J.S. Rana for getting the information about the same. He states that respondent No. 3 told him that there was a permanent vacancy and if the name of the applicant is enrolled in the Employment Exchange, Delhi since he is a member of scheduled casts, his candidature could be considered for the post of ^a sweeper. As desired by the Liaison Officer, the applicant submitted the application with all the supporting documents. After considering the application of the applicant, respondent No. 3 appointed the applicant as sweeper against a permanent vacancy with effect from 1.6.1986 but no appointment letter was issued. He worked in the office of the said respondent from 1.6.1986 to 12.3.1987 continuously without any break and his services were terminated w.e.f. 12.3.1987 on the ground that he did not adhere to the instructions of respondent No. 3 to

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13

receive the registered letter came in the name of Shri

P.R. Krishna Narayan predecessor to respondent No. 3

and he was asked not to come to office w.s.f. 2.3.97

by respondent No. 3. Though he made several representations to the higher ups, no action has been taken. Accordingly, he filed this petition for redressal.

3. The respondents, in their reply, have stated

that no cause of action has accrued in favour of the

applicant against the respondents. The applicant was

the daily wager and working in the capacity of casual

labourer. He was not holding any civil service nor

holding any civil post. Therefore, the protection avail-

able to the civil servant would not be available to the

applicant. They also raised a preliminary objection that

the application is barred by time as per Section 21 of

the Administrative Tribunals Act, 1985. In support of

their contention that the applicant was engaged as casual

labourer, there is no need to issue formal appointment

order as they are not entitled to any grade or scale of

pay but are paid wages at daily rate on muster roll as

per the existing rules. The respondents have submitted

their register for daily wages staff for perusal and on

[Signature]

perusal we find that Santu Ram was taken as daily
wager and his presence has been duly marked in the
attendance register from 1.6.1986 to 12.3.1987.

4. We have heard the arguments of both the
counsel and perused the pleadings of the parties.
Since, there was no appointment letter issued by
the respondents and on perusal of the register for
daily wager, it is confirmed that the applicant
was engaged on daily wage basis and has been paid
as per rules. Therefore, the question of issuing
any formal appointment letter and fixation of pay
does not arise. Since, he was irregular in attending his
duties as averred by the respondent in para 6(vii)
the dates on which he absented himself without any
application/information to respondent No. 3. In the
facts and circumstances of the case, since the applicant
was irregular in attending his duties, the services
cannot be treated as without any break. In the result,
we are of the view that the application is devoid of
merit and we dismiss the O.A. with no order as to costs.

B. S. Hegde
(B.S. Hegde) 24/8/93
Member (J)

S. Gurusankaran
(S. Gurusankaran)
Member (A)