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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

OA:1592/88

Date of Decision: 15.11.91

Shri Sohan Lal

Applicant

Shri R.I. Sethi

Counsel for the Applicant

Vs.

Union of India and Others

Respondents

Shri M.L. Verma

Counsel for the Respondents

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 Reporter or not? *Yes*

JUDGEMENT

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

This OA has been filed under section 19 of the Central Administrative Tribunal Act, 1985, by Shri Sohan Lal, who worked for more than 553 days as a casual labour in the office of the Joint Chief Controller of Imports and Exports, C.L.A. Indraprastha Bhawan, 'A' Wing, New Delhi, against the impugned order dated 15/18.2.88, dispensing with his services with immediate effect and the order dated 29.4.88, rejecting his representation.

2. The applicant has stated that he was appointed as casual labour on daily wages on 21.9.81 in the office of Joint Chief Controller of Imports and Exports, New Delhi and his services were terminated on 20.2.82. He was again appointed on day to day basis w.e.f. 26.11.86 till 12.2.88. According to him, there are number of regular vacancies in the office of the respondents against which daily wages are employed, earlier batches being replaced by

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by fresh ones from time to time. He has given the names of his five juniors who have been retained in service. He alleges that his services were terminated due to the fact that his father was an active Union official and also because he was not in a position to bribe the officials. He also alleges that Respondent No.5 Shri Mahabir Prasad, Lower Division Clerk, took a bribe of Rs.5000/- from Shri Jagbir Singh for regularisation. False complaints against him were obtained from the members of staff all of whom have been impleaded as respondents. The order terminating his services was issued on 12.2.88 but served on him only on 29.2.88 and the wages for this period ^{for} were not paid to him.

3. When the applicant was reemployed second time by order dated 8.12.86, his appointment order mentioned the condition that he would be regularised as Peon only after completing of 240 days in each year for two years of service including 83 days worked earlier. The abrupt termination of his service has denied him the benefit of such regularisation. He has prayed for quashing of the order dated 15/18.2.88 and his reinstatement from the date his services were terminated i.e. 12.2.88 with all consequential benefits.

4. The respondents have alleged in their counter affidavit that he was an unwilling and lethargic worker and since his services were not found satisfactory, he was disengaged from service. The five persons mentioned by him had been sponsored by the Employment Exchange and they were regularised as their work and conduct were found upto the mark. The respondents have also stated that the applicant seems to be a mentally imbalanced person and thus not fit to be retained as a daily wager. The respondents have also denied the allegation of appointment of casual labourers by demanding bribes from the

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applicants. Mahavir Prasad was only a Lower Division Clerk, who had no power or authority to appoint casual labourers and hence there is no question of anyone offering him bribes.

5. We have gone through the records of the case and heard the learned counsel for both parties. This Tribunal had already expressed their views on the subject of casual labourer in case of Shri Raj Kamal and Ors. Vs. U.O.I. (1990(2) CAT 169 at 175) and held that those who have worked for 240/206 days (in case 6 days/5 days a week), will have priority over others in the matter of regularisation. This condition was mentioned in the appointment letter given to the applicant on 8.12.86. However, when his services were terminated on 12.2.88, he had not fulfilled these conditions. The only limited right which he can claim is that he has a preferential right to engagement over the persons with lesser length of service and outsiders. In the instant case, it is clear from the records, that despite opportunities given to the applicant to improve his work and performance, he did not show any improvement. It was observed by another Bench of this Tribunal of which one of us, Shri P.K. Kartha was a party, in Smt. Shakuntla Devi Vs. U.O.I. (OA.556/90, dated 8.2.91), that in a case of this kind, where termination of the services of a casual labourer is on the basis of general unsuitability or unsatisfactory performance, it will not be appropriate for the Tribunal to interfere and direct the respondents to reinstate the employee concerned. We reiterate the same view.

6. We see no merit in the application and the same is dismissed. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 15/11/91
MEMBER(A)

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15/11/91
(P.K. KARTHA)
VICE CHAIRMAN(J)

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