

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

O.A.No.462/88

Decided on: 16-9-1993.

Narayan Singh

...Applicant

Versus

Union of India through
The Administrative Officer,
Maulana Azad Medical College,
NEW DELHI.

...Respondent

CORAM:

HON'BLE MR. N.V.KRISHNAN, VICE-CHAIRMAN(A).
HON'BLE MR. B.S.HEGDE, MEMBER(J).

For the applicant

...Shri K.B.S.Rajan, Counsel
for Shri R.Venkataramani, Sr. Counsel
with Shri S.M.Garg, Counsel.

For the respondent

...None.

JUDGMENT (ORAL)

(BY SHRI N.V.KRISHNAN, VICE-CHAIRMAN(A) :

The applicant is aggrieved by the discontinuance of his services from 5-3-88 by Order No.F.14(296-C)/83-MC/Estt/10580 dated March 5, 1988. A copy of this Order is produced before us today by the learned counsel for the applicant which has been kept on record.

2. The applicant's counsel states that he was initially appointed on ad hoc basis from 16-4-83 initially for a period of three months or till such time a regularly selected candidate is appointed, whichever is earlier. It is stated that this appointment has been continued from time to time without interruption until the impugned order dated 5-3-88, referred to above, was passed.

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3. In the meanwhile, when regular vacancy arose, the applicant sent a representation dated 14-4-87 (Annexure V, page 28 of the paper-book), wherein he requested the respondents to consider him as a departmental candidate along with the employment exchange candidate for selection on regular basis. The applicant was not interviewed though a selection did take place.

4. The respondents have denied that any relief is due to the applicant. It is stated that his appointment has always been on an ad hoc basis on a clear vacancy in the first instance and, thereafter, on the leave vacancy of Badri Prasad till April, 1987 when Shri Badri Prasad was appointed on a higher post. The respondents admit that on 8-1-88, interviews were held to fill up the post of Chowkidar from persons nominated by the employment exchange for consideration. The applicant was not called by them. It is stated that the regular incumbents joined duty on 20-2-88 and 7-3-88 and, therefore, the services of the applicant were terminated on 5-3-88.

5. It is contended that the ad hoc appointment does not give any right to the applicant as already made clear in the first appointment order dated 16-4-83 (Annexure I).

6. The case was taken up today. Shri Rajan proxy counsel appeared on behalf of Shri R. Venkataramani and Shri S.M.Garg Counsel for the applicant. None for the respondent. We have heard the learned counsel for the applicant.

7. Besides reiterating the grounds covered in the OA, it is pointed out that during the service of the applicant, he was given all benefits like increments, P.F. etc. as if he was regular employee. He also contends that in the light of the decision of the Supreme Court in PIARA SINGH's case (ATC 1992 (21) SC

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403, the applicant's services could not have been terminated in the manner it has been done.

8. We have carefully considered the contention raised in this O.A. Admittedly, the applicant has worked continuously without interruption for nearly five years until his services were discontinued by the impugned order dated 5-3-88. Hence, this OA was filed. An interim order was passed directing the respondents on 21-3-88 to maintain the status quo of the applicant and subsequently, it was directed on 4-4-88 that the applicant should be allowed to continue in service as an interim measure. On the basis of that interim order, the applicant is still continuing in service.

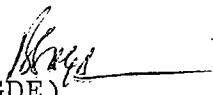
9. As correctly pointed out by the learned counsel for the applicant, the decision of the Supreme Court in PIARA SINGH's case (supra) in regard to the regularisation of ad hoc employees gives considerable support to the applicant's case. If the initial appointment was to last only till a regular selection is made, such selection should have been made within a couple of months. We are unable to agree with the respondents that the process of selection by inviting candidates from employment exchange involves undue delay. In any case, there is no justification to continue the applicant for five years on ad hoc basis pending regular selection. We are of the view that the applicant had a right to be considered along with persons sponsored by the employment exchange for regular selection.

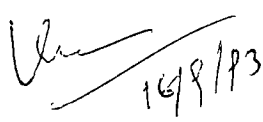
10. In the circumstances, the respondents were not justified in discontinuing his services by the impugned order dated 5-3-88. It is quite clear that as the applicant is continuing on the basis of interim order,

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that there is at least one vacancy against which he is continuing. In any case, we are of the view that the applicant should be given an opportunity to be considered for selection when the next vacancy arises till which date, he should not be discontinued from service.

11. For the aforesaid reasons, we allow this application and quash the impugned order dated 5-3-88. The respondents are directed to consider the applicant for regular appointment as a Chowkidar in the next vacancy, which can even be the post he now holds, by virtue of the interim order, after granting age relaxation as provided in the existing rules/orders. No costs.


(B.S. HEGDE)
MEMBER (J)


(N.V. KRISHNAN)
VICE-CHAIRMAN(A)

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