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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No.657/88

Date of decision: 26.08.1993.

Shri Man Singh

...Petitioner

Versus

Union of India through Secretary,
Ministry of Environment and
Forests, National Wastelands
Development Board, New Delhi

...Respondents

Coram:-

The Hon'ble Mr. I.K. Rasgotra, Member (A)
The Hon'ble Mr. B.S. Hegde, Member (J)

For the petitioner

Shri Ashish Kalia, Counsel.

For the respondents

None.

Judgement(Oral)
(Hon'ble Mr. I.K. Rasgotra)

We have heard the learned counsel for the petitioner. None appeared for the respondents. The petitioner was appointed as casual labour in the Ministry of Industry on 22.4.1982. His service was dispensed with on 28.3.1986. Thereafter he joined as casual labour in the National Wastelands Development Board as a daily rated worker through the employment exchange. He worked in the National Wastelands Development Board from 1.4.1986 to 1.2.1988, when his services were terminated. The petitioner claims that his tenure of service in the National Wastelands Development Board was uninterrupted and continuous. He also alleges that while his services were terminated, some of his juniors were retained.

2. By way of relief he prays that the order of termination of his service be set aside being discriminatory. The next prayer is that the respondents be directed to accord him temporary status in accordance with the established judicial dictum and lastly he prays that

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he should be granted 'equal pay for equal work'.

3. The respondents in their counter-affidavit have taken the stand that the petitioner was appointed purely on daily wage basis w.e.f. 1.4.1986 to attend the duties of peon or labourer in the office. They deny that the petitioner worked continuously during the period 1.4.1986 to 1.2.1988 and submit that he was absent without permission on a number of occasions and for such days he is not paid any wages. They further submit that the work and conduct of the petitioner was found unsatisfactory as there were complaint against him from the officers with whom he was attached. The respondents further assert that the principle of 'last come first go' in these circumstances was not applicable to him.

4. The petitioner has filed a rejoinder. The main argument advanced by the learned counsel for the petitioner is that the respondents have admitted that the observance of the principle of 'last come first go' is not necessary in the case of the petitioner. He, therefore, draws an inference that the respondents have retained the persons junior to the petitioner in service, while they have dispensed with the services of the petitioner.

5. We have considered the submissions made by the learned counsel for the petitioner and perused the record carefully. There is no specific averment in the OA, giving the names of the person who were junior to the petitioner and who were retained in service while the services of the petitioner were dispensed with. Unless there is a specific averment to that effect and the same is denied or accepted by the respondents the drawal of inference that juniors have been retained in service while the services of the senior person have been terminated is not justified.

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6. In view of these circumstances and facts of the case, we are not inclined to consider grant of any relief to the petitioner. The O.A. is accordingly dismissed. No costs.


(B.S. HEGDE)
MEMBER(J)


(I.K. RASGOTRA)
MEMBER(A)

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