

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1449/87
T.A. No.

199

DATE OF DECISION 6.3.1992

Shri Ramesh Chander	Petitioner Applicant
Shri Mahesh Srivastava	Advocate for the Petitioner(s) Applicant
Versus	
Union of India & Others	Respondent
Smt. Raj Kumari Chopra	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. D.K. Chakravorty, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

(Judgement of the Bench delivered by Hon'ble
Mr. D.K. Chakravorty, Member)

The applicant has worked as a Peon on daily wages in the office of the respondents from 22.4.1981 to 30.11.84. Admittedly, he has worked for more than 240 days in two consecutive years before his services were terminated on 30.11.1984. The termination of his services was done because his name had not been sponsored by the Employment Exchange. He has prayed for quashing the impugned order of termination dated 30.11.1984 and for reinstatement with continuity of service and full back wages.



2. The applicant had raised an industrial dispute and had filed a case before the Labour Commissioner (Central). The respondents objected to his jurisdiction on the ground that the office of the respondents is not an industry. In view of this, the Central Government did not take any action on the report submitted on the dispute by the Assistant Labour Commissioner (Central).

3. The respondents have stated in their counter-affidavit that the applicant was engaged on need basis as Waterman/Coolie and not on regular basis. They have also denied that his services were terminated because he was not engaged through the Employment Exchange.

4. We have gone through the records of the case and have considered the matter. From the details of service furnished by the applicant as well as the respondents, it is clear that the applicant has worked for more than 240 days in two consecutive years before the date of termination of his services. For the purpose of computing 240 days, Sundays and holidays are also taken into account.


5. In our opinion, the fact that the applicant was not engaged through the Employment Exchange, should not also be a ground for termination of his services. In fact, the Department of Personnel & Training had issued instructions on 10.10.1979 wherein it has been provided, inter alia,

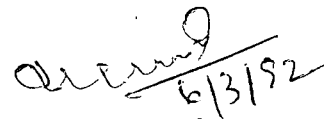
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that ~~although~~ all casual employees, irrespective of whether they had been appointed through Employment Exchange by 20.3.1979, shall be considered for regularisation if they are otherwise eligible. The case of the applicant would also be covered by the aforesaid office memorandum.

6. In the light of the foregoing, we partly allow the present application and direct the respondents to re-engage the applicant as a casual labourer in any of their offices within a period of three months from the date of communication of this order. In the facts and circumstances of the case, we do not direct payment of back wages to the applicant. After re-engaging the applicant, the respondents shall also consider regularising his services in accordance with the relevant administrative instructions issued by the Department of Personnel and Training. There will be no order as to costs.


(D.K. Chakravorty)
Administrative Member


(P.K. Kartha)
Vice-Chairman (Judl.)