

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 541/87  
T.A. No.

199

DATE OF DECISION 05.06.1990

<u>Shri Surbir Singh &amp; Another</u>	Petitioner
<u>Shri R.L. Sethi</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India &amp; Others</u>	Respondent
<u>Mrs. Avnish Ahlawat</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

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? */ m*
4. Whether it needs to be circulated to other Benches of the Tribunal? */*

(The judgment of the Bench delivered by Hon'ble  
Mr. P.K. Kartha, Vice Chairman(J))

The applicants, who have worked as Drivers on daily wages in the office of the Assistant Engineer, Flood Control and Drainage Division, Delhi Administration filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying that the impugned order of their termination dated 28.3.1987 be set aside and quashed and that they be regularised in service with all consequential benefits.

2. The facts of the case in brief are as follows. The first applicant was engaged as Motor Driver on muster rolls w.e.f. 1.1.1985 to 8.7.1985 while the second applicant <sup>also</sup> ~~was~~ engaged as Motor Driver w.e.f. 26.6.84 to 15.8.85. The first applicant

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was offered temporary Work Charged post of Motor Driver on ad hoc basis for a period of three months and he accepted the offer on 8.7.1985. He was appointed as Work Charged Motor Driver on ad hoc and temporary basis w.e.f. 9.7.1985. Similarly the second applicant was also appointed on 7.8.1985. Their term of appointment was extended from time to time. They were governed by the CPWD Manual Volume III (Work Charged Establishment). No notice of termination ~~were~~ served on them nor any retrenchment compensation was paid to them in accordance with the provisions of Section 25 F of the Industrial Disputes Act, 1947.

3. The respondents have stated in their counter-affidavit that the principle of "last come first go" was observed by them and that no official junior to the applicants have been retained. Their services were no longer required.

4. We have carefully gone through the records of the case and have heard the learned counsel of both parties. The learned counsel of the applicant has relied upon the decision of the Supreme Court dated 31.10.1988 <sup>in</sup> Writ Petition (Civil) No. 253 of 1988 (Parkash Chand & Others Vs. Delhi Administration & Others). In the said case, the Supreme Court has directed the respondents to frame a scheme for regularisation of the services of the petitioners and persons similarly situated who have been in service for more than one year. The Supreme Court has further directed until the scheme is so framed and the question of regularisation is considered in the light

of the scheme and final orders are passed thereon by the respondents, their services shall not be terminated. Until the question of regularisation is so determined, the Supreme Court directed the respondents to pay to the petitioners with effect from 1st November, 1988 the minimum salary payable to a person regularly appointed and doing the same kind of work in the department. The case of Parkash Chand's pertained to the Minor Irrigation Department under the Delhi Administration. In our opinion, the benefit of the said judgment would be applicable to the applicants before us as well. Even otherwise, in our opinion, the impugned order of termination in the instant case is not legally sustainable as it is not in conformity with Section 25 F of the Industrial Disputes Act, 1947.

5. In the conspectus of the facts and circumstances of the case, we set aside and quash the impugned order dated 28.3.1987. The respondents shall reinstate the applicants in service as Work Charged Drivers and accommodate them in any of the vacancies available. If no vacancy is available, supernumerary posts should be created to accommodate them. Their services should be regularised in accordance with the scheme to be prepared by them pursuant to the judgment of the Supreme Court in Parkash Chand's case, mentioned above. The applicants

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would also be entitled to the minimum salary payable to a person regularly appointed as Motor Driver with effect from 1.11.1988.

6. The respondents shall comply with the above directions within a period of three months from the date of communication of this order. There will be no order as to costs.

*D.K. Chakravorty*  
(D.K. CHAKRAVORTY)  
MEMBER (A)  
5/6/80

*P.K. Kartha*  
5/6/80  
(P.K. KARTHA)  
VICE CHAIRMAN (J)