

(S)

CENTRAL ADMINISTRATIVE TRIBUNAL  
PRINCIPAL BENCH  
NEW DELHI.

Regn. No. O.A. 1447/90

Date of Decision: 03.05.1991

Shri Braham Prakash Dabbas .. Applicant

Union of India and Ors. .. Respondents

CORAM:

Hon'ble Shri P.K. Kartha, Vice Chairman

Hon'ble Shri B.N. Dhoundiyal, Member(A)

For the Applicant .. Shri Sant Lal, Counsel

For the respondents .. Shri P.H. Ramchandani,  
Senior Counsel.

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

The applicant who was engaged as Mail Man on daily wages for RMS Sorting Offices from 01.06.1979 and had rendered more than 1300 days service, filed this application under Section 19 of the Administrative Tribunal's Act, 1985 praying that the respondents be directed to reinstate him in service extending to him the benefits of the Judgement dated 18.5.90 in the similar cases of Ram Autar, Khem Chand and Others (O.A.1788/89 and O.A.2502/89)

2. His claim is that he worked as a daily wage Mailman from 06.01.1979 to September 1984. He was disengaged in September 1984 without assigning any reason. He was allowed to rejoin his duties on 07.03.1988 as Mail Man on daily wages but his service were terminated once again w.e.f. 12.08.1988 under the verbal orders of the Senior Superintendent, New Delhi Sorting Division. He has contended that the Department of Post is an Industry as defined in Section 2(j) of the ID Act, 1947. Hence the termination of the applicant without following the provisions of Sec. 25F / Sec. 25N of

✓

(3)

the Act of 1947 is void. He is entitled to be regularised in Group 'D' cadre as directed by the Hon'ble Supreme Court in the case of Daily-wage Casual Employee of P & T Department Vs. Union of India (1988(2) <sup>SN.141</sup> SLJ-31-SC) and Jagriti Mazdoor Union Vs. M.T.N.Ltd. (1990(1)ATLT-160) and the scheme for regularisation framed by the Department.

3. The respondents have accepted the fact that the applicant was engaged w.e.f. 06.01.1979 and had worked upto 20.09.1984. After a break of 3 years and 6 months, he was engaged as Casual Labourer again w.e.f. 17.03.1988 upto 11.08.1988 i.e. 4 months and 24 days. According to them, having worked for only 108 days and being overaged he does not fulfil the eligibility conditions.

4. We have gone through the record of the case and have heard the learned counsel for both the parties. It is not understood as to how the respondents claim that he has worked for only 108 days when they themselves accept the fact that in the earlier spell he worked from 06.01.1979 to 20.09.1984 for a period of 5 years and 8 months. The respondents have not alleged that any wrong information was given to them regarding the age and have not produced any evidence that any warning was given to the applicant and that he would be ineligible for regular appointment on this ground. Under the relevant instructions issued by Department of Personnel and Training, casual labourers who have put in 2 years continuous service will be eligible for regularisation. In a batch of applications relating to the employees of the P & T Department, this Tribunal has held that the termination of service of an employee who has worked for more than one year without notice or payment of retrenchment compensation is not legally sustainable (vide O.A.1833/87 and connected cases- Shri Hari Shankar Swamy and Others Vs. Union of India and Others decided on 18.05.1990).

(2)

5.

Following the ratio in the aforesaid Judgement,

the present application is disposed of with the following  
Orders/directions:

- (1) We set aside and quash the impugned verbal order of termination of service w.e.f. 12.08.1988. The respondents are directed to reinstate the applicant in service within a period of 3 months from the date of communication of this Order.
- (2) In the facts and circumstances of the case, we do not direct payment of any back wages.
- (3) After reinstating the applicant, the respondents shall consider regularising the services of the applicant in accordance with the scheme prepared by them, condoning the break in service from 20.09.1984 to 17.03.1988, as also giving to the applicant relaxation in the matter of age.

There will be no order as to cost.

*B.N. Dhundiyal*  
(B.N. DHUNDIYAL)  
MEMBER (A)

*Partha*  
(P.K. KARTHA)  
VICE CHAIRMAN (J)