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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No.1504/90

DATE OF DECISION 3-1-92

Shri Hari Singh

Applicant.

Shri M.K. Gupta

Advocate for the Applicant.

Versus

Union of India & Ots.

Respondents.

Shri R.H. Ramchandani

Advocate for the respondents.

CORAM:

Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN

Hon'ble Mr. B.N. DHOUDIYAL, MEMBER(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? Yes
2. To be referred to the Reporter or not? Yes

JUDGEMENT

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

This O.A. has been filed under Section 19 of the Central Administrative Tribunal Act, 1985 by Shri Hari Singh challenging the oral order of termination (dated 17.4.90) of his services as a casual labourer issued by Administrative Officer, Central Excise and Customs office, New Delhi.

2. The applicant has stated that he has been working continuously in the Directorate of Central Excise and Customs since 19.4.84. He was sponsored by the Employment Exchange. Though engaged as casual worker, he was in fact working as regular soon. He was interviewed for the purpose of regularisation, was duly cleared and issued a letter of offer for regularisation. However, the regular vacancies were filled by casual workers who were junior to him. Four of his juniors viz. S/Shri Ram Narikshan Chaudhary, Rajinder Singh, Ram Babu and Ram Chariter were regularised on 2.12.1988. His prayer is for issue of a direction to the respondents to reinstate him in service w.e.f. 16.4.90.

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with back wages and other consequential benefits.

3. The respondents have stated that the applicant was employed as a casual labour and his services were terminated when no longer required. He was never engaged continuously. The applicant was placed at Sr. No. 10 in the panel for regularisation and as there were only 9 vacancies of peons, he could not be accommodated. Those retained are all senior to him. It was clearly mentioned in the engagement order that anytime his services may be terminated without assigning any reason.

4. We have gone through the records of the case and heard the learned counsel for the parties. It is clear from the statement at Annexure 1 to the counter affidavit that the applicant had worked for 211 days in 1984, 285 days in 1985 and 320 days in 1986, 271 days in 1987, 259 days in 1988, 260 days in 1989 and 31 days in 1990. In *Raj Kamal & Ors Vs Union of India (1990 (2) SLJ 169)*, the following observations were made by this Tribunal:

"Since the Department of Personnel and Training is monitoring the implementation of the instructions issued vide O.M. dated 7.6.1988, the Union of India through that Department, should undertake to prepare a suitable scheme for absorbing such casual labourers in various Ministries/Departments and subordinate and attached offices other than the Ministry of Railways and Ministry of Communications. Their absorption should be on the basis of the total number of days worked by the persons concerned. Those who have worked for 240 days/ 206 days in the case of six days/five days week, respectively, in each of the two years prior to 7.6.1988 will have priority over the others in regard to absorption. They would also be entitled to their absorption in the existing or future vacancies. Those who have worked for lesser periods, should also be

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considered for absorption, but they will be entitled to wages for the period they actually worked as casual labourers. No fresh engagement of casual labourers against regular vacancies shall normally be resorted to before absorbing the surplus casual labourers. The fact that some of them may not have been sponsored by the Employment Exchange, should not stand in the way of their absorption. Similarly, they should not be considered ineligible for absorption if at the time of their initial engagement, they were within the prescribed age limit.*

5. The respondent's plea that only 9 vacancies of peons were available and on that ground the services of the applicant were terminated is not very convincing. The applicant has worked for a long period as a casual labourer from 1984 to 1990 and persons with lesser length of service have not only been retained in service but also their services have been regularised. The respondents have also not stated that the work and conduct of the applicant was not up to the mark.

6. In the light of the foregoing, the application is allowed. The impugned order dated 17.4.90 is hereby set aside and quashed. The applicant shall be reinstated as casual labourer immediately but in no case later than one month from the date of communication of this order. He would also be entitled to regularisation of his services from the date the services of his juniors were regularised in the office of Central Customs and Excise in New Delhi, and in the absence of a vacancy, in any other office of the respondents, treating the Ministry of Finance and its various Departments/attachées/Subordinate offices as a single unit for the purpose of regularisation. The applicant would be entitled to back wages from the date of termination of his services to the date of reinstatement. The respondents shall comply with the above directions within two months from the date of receipt of this order.

There will be no order as to costs.

B.N. DHOONIYAL
(B.N. DHOONIYAL) 31/192
Member (A)

31/192
(P.K. KARTHA)
Vice Chairman (J)