

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 1749/90
T.A. No.

199

DATE OF DECISION 2.9.91

<u>Shri Anil Kumar</u>	Petitioner Applicant
<u>Shri V.P.Sharma</u>	Advocate for the Petitioner(s) <u>Applicant</u>
Versus	
<u>U.O.I & ORS.</u>	Respondent(s)
<u>Shri M.L.Verma,</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K.KARTHA, VICE CHAIRMAN(J)The Hon'ble Mr. B.N.DHOUNDIYAL, MEMBER(A)

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

JUDGEMENT

(JUDGEMENT OF THE BENCH DELIVERED BY HON'BLE
MR. B.N.DHOUNDIYAL, MEMBER)

The applicant is a casual labourer working in the office of the Directorate General, Deordarshan, New Delhi. The relief sought by him is that the respondents should be restrained from relieving him from duty and engaging fresh candidates from the open market and also retaining his juniors.

2. The application was filed in the Tribunal on 24.8.1990. On 31.8.1990, the application was admitted and an interim order was passed to the effect that the respondents will consider engaging the applicant, if any vacancy of peon is available in preference to his juniors/outsiders. The interim order was thereafter continued till further orders.

3. The applicant has stated that his name is registered at Kamla Market Employment Exchange, Delhi and that his name was forwarded

to the respondents for engagement as a peon. He was engaged from 20.11.89 to 28.2.90 when his services were terminated under verbal orders. His juniors have been retained in service and fresh hands are being engaged as peon, which is against the principle of 'last come first go'.

4. The respondents have stated in their counter-affidavit that the applicant does not hold civil post, /that b/w/ he was not duly selected and appointed by the competent authority, and that he is not entitled to any relief, as prayed by him. With regard to the contention of the applicant that he should be continued in service and should not be displaced by another casual employee, the respondents have stated that this plea is not tenable, as the applicant himself had replaced an earlier casual labourer on his engagement. The respondents have also relied upon ~~numerous~~ numerous judicial pronouncements in support of his contentions.*

5. We have gone through the records of the case carefully and have considered the rival contentions. We have also gone through the judicial pronouncements relied upon by the respondents. In a batch of applications filed by the casual labourers engaged in the Directorate General, Guwahati, this Tribunal has delivered a judgement on 26.4.91, giving certain directions to the respondents (OA 2052/89) and connected matters- Shri Rameshwar and another vs. Union of India through Director General, Guwahati). After considering the relevant legal position, the Tribunal has concluded in para 11 of the judgement that "the respondents should frame a suitable scheme for absorption of the casual labourers within a period of four months from the date of receipt of the judgement dated 26.4.91. Pending this, the respondents shall allow the applicant to continue to work as casual labourers in their office as long as there is requirement for such workers. In case the disengagement of some casual

*Decisions relied upon by the respondents;
1989(2) SLJ (SN) 656; 1989(3) SLJ 306; 1990(1) ALJ 614;
1990(1) SLJ 624; 1987 S.C. 874; 1987 S.C. 884; 1989(7)
A.T.C.351; and 1990(2) ATLT 243.

labourers becomes unavoidable, it should be on the principle of "last come, first go". Till the applicants have been regularised the respondents may not resort to fresh recruitment through the Employment Exchange or otherwise. Till they are regularised, the wages to be paid to them, should be in accordance with the minimum in the scale of pay of the post held by a regular employee in a Group 'D' post. After regularisation, they should be placed on par with regular Group 'D' employee in respect of their service conditions and benefits."

6. The above directions equally apply to the case of the present applicant before us. The applicant shall be considered for engagement as casual labourer in preference to his juniors and outsiders. The application is disposed of on the lines of the aforesaid directions.

There will be no order as to costs.

B.N. Jirb, L
(B.N.DHOURDIYAL) 4/873,
MEMBER(A)

Ans 2/8/51
(P.K.KARTHA)
VICE CHAIRMAN(J)