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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.

Regn.No.OA 1825/1990

Date of decision: 19.2.1992

Shri Bhoop Singh

...Applicant

Vs.

Delhi Administration & Others

...Respondents

For the Applicant

...Shri Rishikesh,
Counsel

For the Respondents

...Shri M.K. Sharma,
Counsel

CORAM:

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

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*

2. To be referred to the Reporters or not? *No*

JUDGMENT

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

The applicant who has worked as Beldar on daily wages basis in the office of the respondents is aggrieved by the impugned order of termination of his services with effect from 14.02.1990. He has worked from 16.3.1982 to 14.2.1990. A batch of Writ Petitions filed by the Beldars working in the Minor Irrigation Department under the Delhi Administration was disposed of by the Supreme Court on 15.11.1989 by the following order:-

" Having considered the facts and circumstances of the case and having been apprised that a scheme has been framed, we direct that until the question of regularisation

is actually determined, the petitioners shall be paid, with effect from 1st November, 1988, the minimum salary payable to a person regularly appointed and doing the same kind of work. The arrears due on this account will be paid by 31st March, 1990.

The scheme should be put into operation as quickly as possible. Until the scheme is implemented the petitioners service will not be terminated.

The writ petitions are disposed of with the above directions."(vide p. 4 of the paperbook).

2. The applicant has stated that after the aforesaid decision, he was being paid salary at the rate of Rs.1185/- per month. His services were, however, terminated by verbal orders dated 14.02.1990 without giving him any show cause notice. On enquiry he came to know that his services have been discontinued because of the alleged theft of MS Angle Iron from the Nilotni Store in Nazafgarh Block in the night of 18.12.1989. He has stated that he was on duty at the Nilotni Store at the relevant time along with Beldars/ Chowkidars who were on duty. The other employees alleged to have been involved in the said alleged theft are Naresh Kumar, Ved Parkash, Ram Bhagat, Hawa Singh, Beg Raj and and and Rampal are Beldars working on Muster Roll. The other employees, namely, Naresh Kumar, Ved Parkash and Ram Bhagat are Beldars working as Work Charge employees. All the aforesaid employees are similarly placed. They also preferred Writ Petitions in the Supreme Court. According to him, he is the seniormost and that he is entitled to be regularised, along with the others. While the others have

not been terminated, his services have been terminated. In the case of other employees who are alleged to have been involved, a disciplinary proceeding has been ordered vide order dated 11th January, 1990. The other employees have been placed under suspension by order dated 11.1.1990.

3. The respondents have stated that the applicant was on duty as Chowkidar at Nilothi Store on the night of 25/26th January, 1990 and on that night a theft took place at the store and material worth Rs.17,929/- was stolen. An FIR regarding this theft was lodged with Police which is under investigation. In view of the theft, applicant's name was struck off the muster roll. In the normal circumstances applicant would have got the benefit of the scheme prepared by the Department for regularisation of 1693 daily wagers. But in view of the theft during the duty hours of the applicant he is not entitled to the benefit of regularisation under the scheme.

4. We have gone through the records of the case carefully and have heard the learned counsel of both parties. The applicant has contended that had the respondents acted in terms of the orders of the Hon'ble Supreme Court his services ~~xxxxxxxxxxxx~~ ought to have been regularised much prior to the date of the striking off his name ~~xxxxxxxx~~ on 14th February, 1990. In such circumstances had ~~xxxxxxxx~~ been regularised the

respondents were duty bound to follow the rules and following those rules the services of the applicant could only be suspended and not terminated or discontinued. We are not impressed by this contention. On 11.12.1991, the applicant has filed an affidavit wherein he has stated that he contacted the Police Station at Nangloi and has come to know that no case has been registered against him. FIR against him has been found to be untraced resulting that no case was made out against him. He has produced a photocopy of the statement recorded in the Police Station to this effect on 5.9.1991, at page 32 of the Paperbook. Thus, he has argued that no criminal case/civil case is pending against him.

5. The respondents have not controverted the above version given by the applicant.

6. In the facts and circumstances of the case, the application is disposed of with the direction to the respondents to verify the correctness of the statement dated 5.9.1991 recorded by the Police Station at Nangloi. In case no criminal case is pending against the applicant, he shall be reinstated in service as Beldar and he shall be considered for regularisation in accordance with the scheme prepared by the respondents. They shall comply with the above

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directions within a period of three months from the date of communication of this order.

There will be no order as to costs.

B.N. Dhadial
(B.N. DHUNDIYAL)
MEMBER (A)

Shivaji
19/2/92
(P.K. KARTHA)
VICE CHAIRMAN (J)