

# IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

## NEW DELHI

O.A. No. 2227/90  
T.A. No.

199

DATE OF DECISION 31.5.1991

<u>Shri Brahm Prakash</u>	<del>Petitioner</del> Applicant
<u>Shri P.I. Daman and Shri C.N. Reddy</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India through Secy., Miny. of Human Resource Dev. &amp; Ors.</u>	Respondent
<u>Shri M.L. Verma</u>	Advocate for the Respondent(s)

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

The Hon'ble Mr. B.N. Dhoundiyal, 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? *Yes*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

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

The applicant, who has worked for 292 days as Casual Labourer in the National Museum under the Department of Culture, Ministry of Human Resources Development, is aggrieved by the impugned oral order of termination of his services from 10.3.1990. When the application filed by him came up for admission on 30.10.1990, the Tribunal passed an interim order directing the respondents to consider engaging the applicant as Casual Labourer, if vacancies are available, in preference to outsiders. The interim order was thereafter continued till the case was finally heard on 17.5.1991.

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2. In accordance with the instructions contained in Government of India, Ministry of Personnel, Public Grievances & Pensions, Department of Personnel and Training letter No.51016/2/90-Ests(C) dated 7.2.1990 addressed to all Secretaries to Government of India and others, all eligible casual labourers were to be considered for regularisation against regular posts to the extent such regular posts are justified. The rest of the casual workers who could not be adjusted against the regular posts, but whose retention is considered absolutely necessary, were to be retained and paid emoluments as per the provisions laid down in the guidelines and the remaining casual workers were to be discharged from service.

3. The applicant has stated that there are more than 14 vacancies of Gallery Attendants in the office of Respondent No.3 and the respondents failed to comply with the instructions and guidelines issued by the Ministry of Personnel, P.G. and Pension, Department of Personnel & Training and thus violated the instructions.

4. The respondents have stated in their counter-affidavit that there is no sanctioned post in which the applicant could be appointed. They have stated that

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the applicant was engaged only as a Daily Wage Labourer and was not holding any post and hence, he has no right to ask for regular employment in the National Museum. Moreover, in the National Museum, no vacant post of Peon/Farash is available. They have added that they have already requested the Department of Culture vide our letter No.F.44-5/89-NM dated the 18th April, 1990 for his re-employment in some other organisations. The Department of Culture is taking further necessary action for his re-employment in some other organisations.

5. According to the respondents, the work of Gallery Attendant is highly responsible in that he is to keep a watch on the safety of art treasures of immense value displayed in the Galleries. This work cannot be entrusted to a casual labourer. The applicant has never been allowed to work as Gallery Attendant. The respondents have posted personnel of C.I.S.F. in the National Museum, who look after the security of the Museum and in view of this, all the watch and ward staff, including the Gallery Attendants, will have to be deployed in other organisations.

6. We have carefully gone through the records of the case and have considered the rival contentions. As the applicant had worked only for 292 days, he does not fulfil

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the criteria prescribed by the Department of Personnel for regularisation under the relevant administrative instructions. The only limited right which can be claimed by him is that he has a preferential right to engagement over the persons with lesser length of service and outsiders. The learned counsel for the respondents stated at the Bar that the performance and conduct of the applicant had been upto the mark. That being so, we are of the view that he should be considered for engagement as casual labourer in the office of the respondents in preference to his juniors and outsiders. Out of six casual labourers engaged by the respondents, they have retained only Shri Dhanvir Singh in view of stay order passed by the Tribunal in OA-1756/90 filed by him. Shri Dhanvir Singh has worked for 545 days as against 292 days by the applicant.

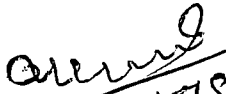
7. During the hearing, the learned counsel for the applicant produced before us copy of a representation sent by the workmen to the Minister of Human Resource Development on 14.3.1991 and the minute recorded by the Minister directing the Secretary, Department of Culture to look into the grievances highlighted by the workmen. The Minister had expressed his unhappiness over the decision

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taken by the D.G. of the Museum to declare 86 employees surplus. The respondents have stated in their counter-affidavit that they have requested the Department of Culture for the re-employment of the applicant in some other organisation. Keeping these aspects in view, we dispose of the application at the admission stage itself with the following orders and directions:-

- (i) Respondent No.1 (the Department of Culture) are directed to consider the re-employment of the applicant as a casual labourer in any available vacancy in any office under them located at Delhi or elsewhere. They shall comply with this direction within a period of two months from the date of receipt of this order.
- (ii) Respondent No.2 is restrained from engaging the services of any casual labourer without considering the preferential claims of the applicant. The interim order passed on 30.10.1990 and continued thereafter, is hereby made absolute. There will be no order as to costs.

  
(B.N. Dhoundiyal) 41/57-9)  
Administrative Member

  
31/5/91  
(P.K. Kartha)  
Vice-Chairman(Judl.)