

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
N E W D E L H I

O.A. No. 2360/90
T.A. No.

199

DATE OF DECISION 10.5.1991

<u>Shri Rishi Haj</u>	Petitioner
<u>Shri B.N. Bhargava</u>	Advocate for the Petitioner(s)
Versus	
<u>U.O.I. through the Secretary, Min. of Information & Broadcasting & Others</u>	Respondent
<u>Shri L.C. Chadha, Accounts Officer</u>	Advocate for the Respondent(s)

CORAM

The Hon'ble Mr. P.K. KARTHA, VICE CHAIRMAN(J)

The Hon'ble Mr. B.N. DHOUDIYAL, 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? *No*
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*

JUDGMENT

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

The grievance of the applicant who is working as a casual labourer in the office of the respondents relates to the termination of his services by verbal orders on 31.10.1990. The applicant has prayed for a direction to the respondents to formulate a feasible policy/scheme of absorption pertaining to casual labourers as has been done in a number of other cases by the Hon'ble Supreme Court as well as this Tribunal and to direct them to give all consequential benefits to the applicant after he has been absorbed retrospectively as his junior is enjoying/has been engaged with effect from 1.11.1990.

2. On 16.11.1990, when the application came up for admission, the Tribunal passed an interim order directing the respondents to consider engaging the applicant as casual labourer, if vacancy is available, in preference to his juniors. On 30.11.1990, the representative of the respondents appeared before us and stated that there was no vacancy to accommodate the applicant and that no junior had been engaged in the office in which the applicant had worked earlier.

3. The facts of the case in brief are that the applicant was initially engaged as casual labourer in the office of respondent No.3 (Assistant Controller of Accounts, Pay & Accounts Office, Shastri Bhawan, New Delhi) on 16.5.1990 and he continued to work as such till 31.10.1990. He was disengaged on 31.10.1990. The applicant has alleged that one Shri Deepak Sharma was also engaged 3 or 4 days after he was engaged and that Shri Sharma was also disengaged on 31.10.1990. However, on 1.11.1990 Shri Sharma was reengaged, ignoring the preferential claims of the applicant who has longer period of service.

4. The respondents have stated in their reply that the applicant was engaged as a casual labourer for filling water in coolers. He was engaged from 16.5.1990 to 24.5.1990 and from 1.6.1990 to 31.10.1990. Thus the total period of service rendered by him is only 105 days.

At the end of summer season, the applicant was disengaged from 1.11.1990. When petty work of casual nature arose in the office, he was reengaged for 2 days for 3.11.1990 and 9.11.1990.

5. As regards the engagement of Shri Deepak Sharma as casual labourer, the respondents have stated that he was engaged in the office of the second respondent (Chief Controller of Accounts, Principal Accounts Office, Tropical Building, 'H' Block, Connaught Circus, New Delhi) for filling water in coolers from 21.5.1990 to 31.10.1990. He worked for a total period of 110 days. At the end of the summer season he was also disengaged with effect from 1.11.1990. It appears that Shri Sharma was again engaged for shifting some records for a further period of 18 days from 1.11.1990 to 27.11.1990.

6. The respondents have stated that there are no regular posts in which the applicant could be accommodated.

7. We have gone through the records of the case and have considered the rival contentions. The applicant having worked only for a period of 108 days, does not fulfil the requirements for regularisation in a Group 'D' post in accordance with the relevant administrative instructions issued by the Department of Personnel & Training. The only limited right he enjoys is that he has

preferential claims over juniors in the matter of engagement as casual labourer, if and when need arises for such engagement. Shri Deepak Sharma who is submitted to be the junior of the applicant is not concurred in service according to the version given by the respondents in their counter-affidavit. We see no reason to disbelieve the same.

8. In the facts and circumstances of the case the application is disposed of at the admission stage itself with the direction to the respondents that in case they need the services of casual labourers, the case of the applicant should also be considered having regard to the length of service put in by him as casual labourer in their office.

There will be no order as to costs.

B.N. Dholiyal
(B.N. DHOUDIYAL) 10/5/90
MEMBER (A)

P.K. Ray
(P.K. RAY) 10/5/90
VICE CHAIRMAN (A)