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CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA NO. 2740/90

New Delhi this the 25th day of January 1995.

Hon'ble Mr. J.P. Sharma, Memger (J)
Hon'ble Mr. S.R. Adige, Member (A)

Krishan Pal
S/o Sh. Chidda Singh
R/o B-108 Gautam Nagar
New Delhi. ....Applicant

(By advocate: Mr. B.S.Randhawa)

Versus

1. Union of India through
Secretary, Ministry of
Home Affairs, North Block
New Delhi-110 001.

2. Director
CBI/SPE
North Block
New Delhi-110 001 ....Respondents.

(By advocate: Mr.P.H. Ramchandani)

JUDGEMENT (Oral)

Hon'ble Mr. J.P. Sharma, Member (J)

The applicant was appointed as Daily Wage Worker since February 1990 in the office of Director, CBI/SPE, North Block, New Delhi. The applicant was sponsored by Employment Exchange as Daily Wage Worker on casual basis with Respondent No. 2 and was appointed as such on 1.8.1988 and continued till 26.2.1990 without a break. The applicant has alleged that he was thrown out arbitrarily from service while a person who was appointed as daily wage worker on casual basis subsequent to the applicant, namely Shri Mintoo was retained, and was regularised in the service as Group D employee. On the basis of the aforesaid grievance, the applicant filed this application in December 1990 and prayed for grant of relief that a direction be issued to the respondents

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to cancel the termination order passed orally on 25th February 1990, and re-appoint and regularise the service of the applicant in group-D post with effect from his respective date of appointment in preference to his junior and outsider casual workers. When the application came up before the Bench on 1st January 1991, it was directed that the respondents should consider engaging the applicant as casual labourer if vacancies are available in preference to his juniors and outsiders. It appears that the respondents even after the interim direction did not engage the applicant.

2. The respondents on reply contested this application and stated that the number of days the applicant had worked in 1988 is 108, in 1989 it is 262 and in the year 1990 it is 41. The applicant, of course, was appointed as casual worker with certain breaks during all these years. The respondents have specifically mentioned that after terminating the applicant from service, one person of the name of Shri Mintoo was recruited as casual worker w.e.f. 27.2.1990. However, this contention was denied and it is stated that such Mintoo has been employed with the respondents since 10.2.1988. As such the applicant has no case. It is also mentioned in the counter that the applicant had been working in different offices of CBI at different point of time, including in the office of Supdt. of Police, Anti Corruption Unit. As such it is stated that the applicant has no case.

3. The applicant also filed rejoinder reiterating the same facts, highlighting that one junior to him was regularised by the respondents w.e.f. 10.8.1988.

4. We heard the learned counsels at earlier sitting on 20.1.1995 and in order to convince us regarding the engagement for the first time of casual labourer Shri Mintoo, we called for records from the respondents. The respondents have placed before us an appointment letter of Mintoo along with one Bhushan Dev Bhagat showing that they

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were appointed w.e.f.10.2.1988 and 15.2.1988 respectively. The respondents have also placed before us the facts regarding disbursement of salary of Shri Mintoo on daily rated basis on the number of days he has worked at different points of time since February 1988. We have perused records so also the learned counsel for the applicant.

5. The applicant's counsel, after seeing the records, conceded that he might not have been correctly informed by the applicant regarding this particular fact about the engagement of Mintoo w.e.f. 10.2.1988. Further the learned counsel also argued that there were certain persons who were subsequently engaged by the respondents, but that is not the issue in this case. Earlier a request was made by the learned counsel that he should be allowed to file affidavit which is not tenable in view of the fact that the case is decided on the pleadings of the parties. This matter is already pending since 1991. It was open to the applicant to make any amendment to the application during all these 4 years if the respondents have acted in a manner contrary to the order granting interim relief on 1.1.1991 referred to above directing the respondents not to engage any person junior to the applicant as well as outsiders afresh.

6. The request of the learned counsel therefore cannot be equitably accepted. In view of this, we find that the respondents are not at fault in terminating the applicant from service w.e.f. 26.2.1990 and the relief prayed for by the applicant cannot be granted. However, it shall be open to the applicant to make representation to the respondents to claim any benefit if so advised according to law. The application is disposed of accordingly with no costs.

(S.R. ADIGE)
MEMBER (A)

(J.P.SHARMA)
MEMBER(J)

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