

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 2749/90
T.A. No.

199

DATE OF DECISION 3.5.1991

Shri Ishwar Chand

~~Petitioner~~ Applicant

Shri A.K.Behra

Advocate for the ~~Petitioner(s)~~ Applicant

Versus

U.O.I through the Secretary, Min.of Finance
& others Respondents

Shri M.L.Verma,

Advocate for the Respondent(s)

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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? *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(J))

The grievance of the applicant who has worked as a casual labourer for about 10 years relates to termination of his services with effect from 31.12.1989. He has prayed for a direction to the respondents to absorb him in a group 'D' post in any Ministry/Government Department/Office, to direct them to count his past service for all service benefits like seniority, pension etc., and to direct them to give all consequential benefits to him.

2. The facts of the case in brief are that the applicant has worked as a Peon in different Ministries as under:-

| <u>" S.No.</u> | <u>Ministry</u> | <u>Period of Service</u> |
|----------------|---------------------|--------------------------|
| <u>(1)</u> | <u>(2)</u> | <u>(3)</u> |
| 1. | Min.of Home Affairs | 2.4.80 to 30.9.80 |

| (1) | (2) | (3) |
|-----|--|-------------------------|
| 2. | High Power Panel of Minorities | 1.10.80 to 23.1.84 |
| 3. | Commission on Centre-State Relations | 24.1.84 to 20.9.87 |
| 4. | Ninth Finance Commission | 21.9.87 to 31.12.89 |
| 5. | ADB Conference Secretariat, Department of Economic Affairs | 22.2.90 to 31.5.90 " |

3. It will be noticed from the above particulars that he has worked continuously from 2.4.1980 to 31.12.1989 in the Ministry of Home Affairs and various bodies under different Ministries. These particulars have not been controverted in the counter-affidavit filed by the respondents.

4. The applicant was sponsored by the Employment Exchange at the time of his initial appointment. His work and conduct during the entire period was satisfactory. Even though his services were terminated, the respondents have retained persons junior to him. The names of those persons have been mentioned in para 4.6 of the application.

5. The applicant has stated that there are a number of vacancies of Class IV posts in the Ministry of Home Affairs as well as in the Department of Economic Affairs

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in the Ministry of Finance. The reply of the respondents in this regard is that the vacancies are required to be filled up in accordance with the Recruitment Rules.

6. We have carefully gone through the records of the case and have considered the rival contentions. Persons similarly situated had filed OA 868/90 in this Tribunal, which was disposed of by judgment dated 5.3.1991 (Sh. Mohinder Singh & Others Vs. U.O.I. through the Secretary, Min. of Home Affairs and Others) to which one of us (Shri P.K. Kartha) was a party. This Tribunal had considered the question of regularisation of casual labourers engaged in the various ministries/departments of the Government of India in Raj Kamal & Others Vs. Union of India, 1990(2), CAT 169, to which one of us (Sh. P.K. Kartha) ^{/is a} party. After considering the relevant case law on the subject, the Tribunal had directed that a scheme, as indicated in the judgment, should be prepared by the Department of Personnel & Training for absorbing the casual labourers in various ministries/departments. It was further directed that the absorption of casual labourers should be on the basis of the total number of days worked by the persons concerned. Those who have worked for 240 days/206 days (in the case of 6 days/5 days a week, respectively), in each of the two years prior to 7.6.1988, will have priority over others in regard to absorption. They would also be entitled to their absorption in the existing or future vacancies.

Those who have worked for a lesser periods, should also be considered for absorption. No fresh engagement of casual labourers against regular vacancies shall normally be resorted to before absorbing the surplus casual labourers.

7. In the instant case, the applicant has worked for more than 240 days in each of the two years prior to 7.6.1988. In view of this and following the ratio in the judgment of the Tribunal in Raj Kamal's case, the application is disposed of with the following orders and directions:-

(i) The impugned order of termination of the applicant after the winding up of the 9th Finance Commission is set aside and quashed. The respondents are directed to engage the applicant as casual labourer in a regular vacancy in the post of Group 'D' arising in the Ministry of Home Affairs and its offices in Delhi and to consider his regularisation in such vacancy.

(ii) In case no vacancy exist in the Ministry of Home Affairs and its offices in Delhi, the applicant should be adjusted against a vacancy of Group 'D' staff in other Ministries/Departments/Attached/Subordinate Offices for appointment in accordance with a scheme directed to be

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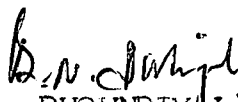
prepared as mentioned in para 21 of the judgment in RAj Kamal's case.

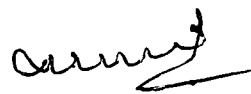
(iii) The respondents are directed not to induct any fresh recruit as casual labourer through Employment Exchange or otherwise, overlooking the preferential claim of the applicant.

(iv) The emoluments to be given to the applicant till his regularisation would be strictly in accordance with the orders and instructions issued by the Department of Personnel & Training. After his regularisation, he shall be paid the same pay & allowances as a regular employee belonging to the Group 'D' category.

(v) The interim order passed on 1.1.1991 and continued thereafter directing the respondents to keep one Group 'D' post vacant and not to fill up the same by candidates sponsored by the Employment Exchange or otherwise is hereby made absolute. The applicant should be accommodated in one of the vacancies.

There will be no order as to costs.


(B.N. DHOUNDIYAL)
MEMBER (A)


(P.K. KARTHA)
VICE CHAIRMAN (J)