

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 666/90
T.A. No.

199

DATE OF DECISION 07.12.1990

Shri Raj Kishore	Petitioner
Shri V.P. Gupta	Advocate for the Petitioner(s)
Versus	
U.O.I. through the Cabinet Secretary & Another	Respondent
Shri P.P. Khurana	Advocate for the Respondent(s)

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

The Hon'ble Mr. D.K. CHAKRAVORTY, 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 relates to his termination from service as daily wage Class IV employee by verbal order dated 4.4.1990. He has prayed that the respondents be directed to continue him in service and pay him arrears for the intervening period.

2. The facts of the case in brief are that the Employment Exchange sponsored the name of the applicant along with some others to the respondents for engagement as daily wage Class IV employees at the rate of Rs.23.25 per day for a period of six months. The applicant along with 5 others were selected and they were engaged with effect from 24.6.1989. The applicant

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has continued to work till he was disengaged on 4.4.1990. He has worked for more than 240 days as casual labourer.

3. Initially, the applicant was working under the Care Taker of the Cabinet Secretariat from 24.6.1989 to 1.7.1989. From 1.7.1989 to 27.10.1989 he worked with the Private Secretary to the Chairman, National Transportation Safety Board, Cabinet Secretariat. From 27.10.1989 onwards, he worked in the office of the National Transportation Safety Board.

4. The applicant claims that having worked in the office of the respondents for over 240 days, he has developed a right to continue in employment in preference to fresh daily wagers. He has, however, not alleged that the respondents have taken steps to recruit any fresh daily wager in his place after terminating his services.

5. In rejoinder-affidavit filed by the applicant, he has contended that service for 240 days in the National Transportation Safety Board is analogous to Industry and; therefore, he is entitled to certain privileges.

6. The respondents have stated in their counter-affidavit that the applicant was disengaged from service with effect from 2.4.1990 on the ground that there was no vacancy available to continue the applicant as a casual labourer. He was engaged for doing work of waterman, which was of a casual and intermittent nature. They have also submitted that after having worked for 240 days, the applicant does not get any right to claim regularisation against any Group 'D' post in the Government.

7. We have carefully gone through the records of the case and have heard the learned counsel of both parties. The



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applicant has not substantiated his claim for regularisation as casual labourer on the basis of any rule or administrative instruction issued by the Government. The casual labourers are engaged and regularised by the Government in accordance with the administrative instructions issued by them from time to time. According to these instructions, casual labourers are appointed to Group 'D' post if they possess minimum experience of 2 years of continuous service as casual labourer (i.e., 206 days ^{in each year} ~~in the case of~~ offices observing 5 days week and 240 days ^{in each year} ~~in other cases~~) and if vacancies are available (vide DP&AR OM dated 26.10.1984). In the instant case, the mere fact that the applicant has worked for more than 240 days will not entitle him to regularisation in a Group 'D' post. The applicant has also not alleged that his services are sought to be replaced by engaging a fresh recruit.

8. We are not impressed by the contention raised by the applicant that the National Transportation Safety Board is an Industry within the meaning of Section 2(j) of the Industrial Disputes Act. The National Transportation Safety Board is part and parcel of the Cabinet Secretariat and it is a Governmental agency. The learned counsel of the applicant relied upon the decision of the Supreme Court in Bangalore Water Supply and Sewerage Vs. A. Rajappa & Others, 1978(2) SCC 213. The decision of the Supreme Court in the case of Bangalore Water Supply and Sewerage is not applicable to the facts and circumstances of the instant case. The learned counsel of the applicant also relied upon the decision of the Rajasthan High Court in Municipal Board Marwar, Mundwa Vs. Industrial Tribunal, 1990(3) CSJ 43. The said case related to the termination of services of a daily

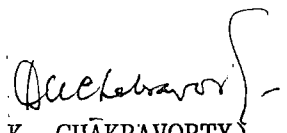
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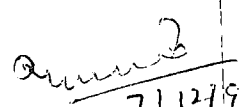
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wager who had put in more than 240 days of service. The termination was for an alleged misconduct committed by the employee who was entitled to the protection of Section 25F of the Industrial Disputes Act, 1947. In our opinion, the said decision is also not applicable to the facts and circumstances of the instant case.

9. In the light of the foregoing, we are of the opinion that the applicant is not entitled to the reliefs sought in the application. Nevertheless, the applicant having worked for over 240 days as daily wager in the office of the respondents, if any vacancy becomes available, the respondents should consider engaging the applicant as daily wager/casual labourer in preference to ^{juniors and} outsiders.

10. The application is disposed of on the above lines. There will be no order as to costs.


(D.K. CHAKRAVORTY)
ADMINISTRATIVE MEMBER
7/12/890


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