

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 945/90 199
T.A. No.

DATE OF DECISION 8.2.91

Shivnath Singh Rathu Petitioner

Shri Jog Singh Advocate for the Petitioner(s)

Versus

Director Sugarcane Development Respondent

& others Advocate for the Respondent(s)

Shri A.K. Behra
For Shri P.H. Ramchandani

CORAM

The Hon'ble Mr. G. Sreedharan Nair, V.C.

The Hon'ble Mr. P.C. Jain, Member (A)

1. Whether Reporters of local papers may be allowed to see the Judgement? X
2. To be referred to the Reporter or not? X
3. Whether their Lordships wish to see the fair copy of the Judgement? X
4. Whether it needs to be circulated to other Benches of the Tribunal? X

(G. Sreedharan Nair)
Vice-Chairman

15

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

Registration No. O.A.945 of 1990

Date of order 8.2.1991

Shivnath Singh Rathie .. Applicant

- versus -

Director, Sugar Cane Development
& others .. Respondents

CORAM: Hon'ble Shri G.Sreedharan Nair, V.C.
Hon'ble Shri P.C. Jain, Member(A)

Counsel for the applicant : Shri Jog Singh
Counsel for the respondents : Shri A.K. Bahra
for Shri P.H.Ramchandani

O R D E R

Hon'ble Shri G.Sreedharan Nair, V.C.:-

The applicant, who was a Clerk in the Army Medical Corps from 1967 to 1989, was discharged on medical grounds. Since he was eligible for civil employment, he registered his name for re-employment at the Zila Sainik Kalyan Evam Punarvas Parishad, Ghaziabad. It is alleged that ⁱⁿ a combined selection held by the 1st respondent, the Directorate of Sugar Cane Development and by the Directorate of National Bio-Fertilizers Development, the applicant was called for the interview held on 26.4.1989 and by the order dated 3.5.1989 he was appointed as Lower Division Clerk under the 1st respondent.

2

His grievance is that though he was continuously working till 15.5.1990, he was not allowed to continue from 16.5.1990. It is stated that at the time of appointment of the applicant, there were four regular posts of Lower Division Clerk lying vacant and that three of them are still vacant.

2. The applicant prays for a declaration that the discontinuance of his service is illegal and for regularisation of his appointment. It is urged that though it was mentioned in the offer of appointment that it was temporary, it was actually a permanent appointment under the quota meant for direct recruits.

3. In the reply filed by the respondents, it is contended that the applicant was engaged for a period of three months for clearance of typing work and his services were dispensed with when it was no longer required. It is pointed out that as the applicant has not acquired any legal right to the post, he cannot challenge the discontinuance. It is further stated that the engagement of the applicant itself was objected by the audit party as irregular and illegal on the basis of which Government issued orders on 16.5.1990 to terminate the services of the applicant with immediate effect.

4. The question that arises for determination is whether the discontinuance of the engagement of the applicant from 16.5.1990 is illegal.

5. From the memorandum dated 3.5.1989 (copy of which is at Annexure-II), it is clear that the offer of appointment to the applicant to the post of LDC was on purely temporary basis for a period of three months

2

and that the same will not confer upon him a right for the post. The said offer was accepted by the applicant pursuant to which the order dated 29.5.1989 was issued on those terms. By the subsequent orders the appointment was being extended for further periods of three months. By the order dated 16.2.1990 he was allowed to continue for another three months. It was on the expiry of the said period that the services were dispensed with. The respondents have clearly stated in the reply that the engagement was solely for the purpose of clearance of some typing work and it was discontinued on completion of the same. It is not disputed that regular appointment against the post can be made only through the Staff Selection Commission or through the Surplus Cell of the Department of Personnel and that the guidelines relating to reservation of the prescribed categories have also to be complied with. Evidently, the engagement of the applicant was not made in accordance with the prescribed procedure. No doubt, it was after the conduct of an interview that the applicant was chosen for the engagement; ^{but} that by itself will not make the engagement as one in accordance with the prescribed procedure.

6. It is on record that objection was taken to the appointment by the internal audit on the ground that it was not in conformity with the prescribed procedure regarding recruitment to Government posts. In view of the same, Government decided to terminate the services of the applicant with immediate effect and

2

18

-4-

the 1st respondent was directed to implement the same. Accordingly, the 1st respondent issued the order dated 17.5.1990 to the effect that the services of the applicant shall stand terminated with effect from 16.5.1990. As such, the discontinuance of the services of the applicant cannot be faulted. As a matter of fact, by the order dated 16.2.1990, the services of the applicant automatically stand terminated on 16.5.1990.

7. It was submitted by counsel of the applicant that since there are vacancies against the post of LDCs under the 1st respondent, the applicant is entitled to be regularly appointed against one of these posts. In the nature of the case, we need only point out that in case there is any such vacancy and the 1st respondent proposes to fill up the same in accordance with the prescribed procedure, the applicant shall also be considered subject to his eligibility for the same.

8. The application is disposed of subject to the aforesaid direction. The interim order dated 22-5-1990 shall stand recalled.

Cen. 8/24/99
(P.C.Jain)
Member(A)

8.2.1991
(G.Sreedharan Nair)
Vice-Chairman

M.Mahto

8.2.91.