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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH,
NEW DELHI.

OA.No.1616/91

Date of Decision: 14.8.92

Shri Jagbir Singh

Applicant

Shri A.K. Sinha

Counsel for the applicant

Versus

Union of India & Ors.

Respondents

Shri A.K. Behra, proxy

Counsel for the respondents

Counsel for the Senior

counsel Shri P.H.Ramchandani

◻ RAM:

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 Reporters or not? *yes*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N.Dhoundiyal)

This OA has been filed by Shri Jagbir Singh, a casual employee of the National Academy of Central Excise, Customs and Narcotics, against the impugned order dated 3.4.91, by which the respondents have arbitrarily terminated his service.

2. The applicant was recruited as a casual labour on 2.2.89 and had been working continuously till 3.4.91. He had undergone various tests conducted by the Academy from time to time, attended suminars organised by the Academy for training purposes and generally worked satisfactorily. He has given the names of three casual
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workers, junior to him, who were regularised out of turn, namely, S/Shri Heera Chand, Deep Chand and Shrawan Kumar. The applicant alleges that denying ^{by} ~~the~~ work to him while allowing his juniors to continue in service is violative of provisions under Articles 14 and 16 of the Constitution of India. He has worked for 240 days in a year for two years consecutively and is eligible for regularisation under the relevant administrative instructions issued by the Government. The applicant prays that the respondents be directed to regularise him as a permanent employee.

3. The respondents have admitted that the applicant has been working with them for two years. In the absence of the sanctioned staff, the requirement of cooks, Masalchis and helpers required for Seminar Hall and for running hostels at Mayapuri, Asian Games Village and Pushpa Vihar were met by engaging casual labours. In pursuance of the Supreme Court Judgement dated 17.1.86 and instructions of Department of Personnel and Training OM dated 7.6.88, a proposal was sent to Ministry of Finance for creation of 29 posts in Group 'D', so that, the services of such employees could be regularised. The Staff Inspection Unit was deputed to conduct the work study and assess the exact requirements of the staff. They recommended that 20 posts would be sufficient instead of 29 posts and the junior most 9 employees had to be disengaged, as the Ministry of Finance did not agree to provide for payment of their wages beyond 31.3.91. The respondents have contended that even though the applicant has worked for two years, he cannot be absorbed without regard to the fact, whether there are posts available with them or not. They have also explained that two of the juniors mentioned by him namely, S/Shri Deep Chand, and Srawan Kumar were screened by DPC and found fit for the post of sepoy and Shri Hirachand was selected for the
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post of Salesmen in the Departmental Tiffin Room. They have also stated that no junior to the applicant is being retained as casual worker.

4. We have gone through the records of the case and heard the learned counsel for both the parties. Six colleagues of the applicant had filed two OAs, No.952/91 and No.1351/91, which were decided by this Tribunal on 19.12.91. In the case of Raj Kamal & Ors. Versus Union of India; 1990(2) SLJ CAT 169, it was held that for the purpose of regularisation of casual labourers, the Union of India should be treated as a single unit and those who have worked for more than two years as casual labourers, deserved to be considered for regularisation of their services, ignoring the artificial breaks in their services. This view was reiterated by this Bench of the Tribunal, in the case of Balwant Singh Rawat & Ors. Versus Union of India (O.A.No.952/91) and Ram Kishan Vs. Union of India (O.A.No.1351/91) decided on 19.12.91. Following the ratio of these judgements, the application is disposed of, with the following directions:-

(1) The impugned orders of termination dated 3.4.91 are set aside and quashed. The applicant shall be reengaged as casual labourer in a regular vacancy in the post of Group 'D' arising in the National Academy of Central Excise, failing which, in the Central Excise and Customs Department as a whole, in their offices elsewhere. in Delhi or/

(ii) In case no vacancy exists in the Central Excise and Customs Department, the Ministry of Finance and its subordinate offices shall be treated as one unit for this purpose and the applicant shall be reengaged whenever vacancy exists.

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(iii) No fresh recruits shall be inducted as casual labourers through the Employment Exchange or otherwise over-looking preferential claims of the applicant. The emoluments to be given to him till his regularisation, should be strictly in accordance with the orders and instructions issued by the Department of Personnel and Training. After his regularisation, he shall be paid the same pay and allowances, as the regular employees belonging to Group 'D' category.

(iv) The respondents shall comply with the above directions as expeditiously as possible, and preferably within a period of three months, from the date of receipt of this order.

(v) The interim order passed in this case is hereby made absolute. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 14/8/82
MEMBER(A)

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

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