

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn. No. OA 2023/1991

Date of decision: 10.01.1992.

Shri Tej Pal

...Applicant

Vs.

Appellate Tribunal for Forfeited
Property and Another ...Respondents

For the Applicant

...Shri J.P. Singh,
Counsel

For the Respondents

...Shri P.H. Ramchandani,
Sr. Counsel

CORAM:

THE HON'BLE MR. P.K. KARTHA, VICE CHAIRMAN(J)

THE HON'BLE MR. B.N. DHOUNDIYAL, ADMINISTRATIVE MEMBER

1. Whether Reporters of local papers may be allowed to see the Judgment?
2. To be referred to the Reporters or not?

JUDGMENT

(of the Bench delivered by Hon'ble Mr. P.K. Kartha,
Vice Chairman(J))

The applicant who belongs to the Scheduled Caste
in the office of the respondents
community has worked as a Waterman on daily wages/ for
about six years from 2.5.1985 to 2.4.1991 with technical
breaks in service. He has sought for quashing the impugned
order dated 2.4.1991 whereby his services were terminated,
for reinstating him in service, for regularising him and
for giving him all consequential benefits.

2. The facts of the case are not disputed. The plea
of the respondents is that there is not enough work to
accommodate the applicant and that he does not even other-
wise possess the requisite qualifications prescribed for

appointment in a regular Group 'D' post. They have not stated that the work and conduct of the applicant were not upto the mark.

3. We have gone through the records of the case and have heard the learned counsel for both parties. In our opinion, the impugned order of termination of the services of the applicant is clearly not sustainable or tenable in law.

4. In Durga Prasad Tiwari Vs. Union of India, 1990(3) SLJ(CAT) 94, this Tribunal has held that casual labourers who have worked for 2-4 years should be considered for regularisation of their services irrespective of whether their names had been sponsored by the Employment Exchange. For this purpose, a unit of the Ministry/Department should not be taken in isolation and the Ministry/Department should be taken as a single unit.

5. The aforesaid view was reiterated in the subsequent decision of the Tribunal ~~in~~ in Raj Kamal and Others Vs. Union of India, 1990(2) SLJ (CAT) 169 wherein the respondents were directed to prepare a rational scheme with a view to regularising casual labourers who had worked for more than 240 days.

6. We are also of the view that while considering the regularisation of casual labourers, relaxation in age should be given to the extent of service already rendered

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by them as casual labourers from the dates of their initial engagement. Reference may also be made to the OM dated 6.4.1991 issued by the Department of Personnel according to which relaxation is to be given in such cases, even if the casual labourer was recruited otherwise than through Employment Exchange.

7. As regards the qualifications, casual labourers who have put in sufficiently long period of service like the applicant in the instant case, deserve relaxation of the prescribed qualifications, having regard to the experience gained by them. In ~~Bhagwati~~ Prasad Vs. Delhi State Mineral Development Corporation, 1991(1) SCC 619, the Supreme Court has held that "practical experience would always aid the persons to effectively discharge the duties and is a sure guide to assess the suitability. The initial minimum educational qualification prescribed for the different posts is undoubtedly a factor to be reckoned with, but it is so at the time of the initial entry into service. Once appointments were made as daily-rated workers and they were allowed to work for a considerable length of time, it would be hard and harsh to deny them the confirmation in the respective posts on the ground that they lack the prescribed educational qualifications".

8. In the light of the foregoing discussion, we partly allow the application and disposed it of with the following orders and directions:-

(i) The impugned order of termination of services of the applicant is set aside and quashed. The respondents are directed to continue the services of the applicant as a casual labourer in the vacancies of Group 'D' posts available in the Ministry of Finance and its attached/ subordinate offices at Delhi/elsewhere, depending on the availability of vacancies.

(ii) The respondents are directed to consider regularisation of the applicant in a suitable Group 'D' post and for this purpose, the upper age limit as well as qualification should be deemed to have been relaxed having regard to the period of service put in by him.

(iii) The respondents shall comply with the above directions within a period of three months from the date of communication of this order.

There will be no order as to costs.

B.N. Dhundiyal
(B.N. DHUNDIYAL)
MEMBER (A)

Amrit
10/11/92
(P.K. KARTHA)
VICE CHAIRMAN (J)

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