

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL NEW DELHI

O.A. No. 2170/91
M.P. ~~F.A.~~ No. 1451/92

199

DATE OF DECISION 23-8-93

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| <u>Shri Brahm Pal & Ors.</u> | Petitioner |
| <u>Shri JP Verghese</u> | Advocate for the Petitioner(s) |
| Versus | |
| <u>Union of India & Ors.</u> | Respondent |
| <u>Shri Jog Singh</u> | Advocate for the Respondent(s) |

CORAM

The Hon'ble Mr.

J.P.Sharma, Member (J)

The Hon'ble Mr.

B.K.Singh, Member (A)

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

JUDGEMENT (ORAL)

(Hon'ble Shri J.P.Sharma, Member (J))

Shri Brahm Pal and four others filed a joint application apprehending their termination from the job of casual daily wage employed with the Staff Selection Commission (SSC). The prayer to join together has been allowed though the date of joining as casual labourer in the case of these applicants materially differs. For example, applicant No.1 Brahm Pal joined in April, 1987, applicant No.2 Sudesh Kumar joined in July 1989, Vidya Nand applicant No.3 joined in July 1990, Surinder Singh applicant No.4 joined in June, 1991 and the last applicant Rajbir Singh joined on 19 June 1991 only three months earlier of filing this application on 19-9-91. The applicant have prayed for the grant of the relief for regularisation of the services as against the regular vacancies with the directions to the respondents to continue the services of the petitioners/applicants.

The Tribunal by its order dated 20-9-91 granted an interim

relief to the applicants giving a direction to the respondents not to terminate the services of the applicants as casual labourers. That interim direction continued.

The respondents contested this application and vide their reply making averments that the work in the SSC is of such nature that often needs engagement of certain persons on casual daily wages to cope with the work at that time. In reply therefore the respondents took a stand that the applicants have no case for regularisations of their services. The respondents however filed an additional document on 7-5-93 scheme for daily wagers which is at page 36 of the paper book. The SSC had formulated the scheme for daily wagers in view of directions given in another case OA 1489/90 decided on 11-2-92. The Commission has taken the following steps:

- (i) The daily wagers who fulfill the condition of required length of service as a casual worker in two consecutive years i.e. 240 days (260 days in case of office having 5 days in a week) during each year are eligible for being considered for regularisation;
- (ii) The list of the remaining daily wagers is being utilised by the Commission to procure their services as and when the exigencies of work in SSC do demand;
- (iii) The department of Personnel & Training has been requested to take urgent steps for creating of group 'D' posts on priority basis to facilitate regularisation of the eligible daily wagers retained in the Commission.

We have heard the learned counsels of parties at length. The ld. proxy counsel Shri George Paricaen for Shri JP Verghese argued with regard to applicants No.1 to 4 i.e. Brahm Pal, Sudeh Kumar, Vidya Nand and Surinder Singh. Their grievance stands satisfied by the scheme of regularisation of casual labourers drawn by the SSC. In view of this, this application

with regard to these applicants has become infructuous and no further direction need be issued except that the respondents to carry out the aforesaid scheme as given by them in the additional document filed on 7-5-93.

The applicant No.5 Rajbir Singh has been disengaged w.e.f 25-4-92. The contention of the ld. counsel for the applicant is that when there was an interim direction by the order dated 20-9-91 the respondents should not have dispensed with his service. In support of this the learned counsel for the applicant preferred MP 1451/92 wherein the attendance register photo copy relevant to the aforesaid applicant has been annexed at page 25 of the paper book. In the column meant for signatures it is written orders of RD(NR) dated 24-4-92. The respondents in their reply stated that the applicant was working as a casual labourer and he was given the work of serving an envelope to Ram Kumar at the address Gali No.6, P-138, Shankar Nagar, Shahdara, Delhi. For this candidate the Board had decided to ^{hold} interview on 7-4-92 for the post of S.I. in Delhi Police on the directions of Central Administrative Tribunal in case No.CA562/92. He was the only candidate to be interviewed. Shri Rajbir Singh applicant No.5 instead of serving the said letter on Shri Ram Kumar had served on a wrong person in Gali No.9. This has resulted in lowering down the image of the SSC which has to cut a sorry figure on account of the mistake of the said Shri Rajbir Singh. In view of this the applicant was discharged/disengaged w.e.f. 25.4.92. A serious view was taken in view of the decision of the Tribunal dated 11-2-92 OA 149 of 1990 where the Tribunal had observed that the person had not been found upto the mark and may be disengaged as a casual labourer/daily w^{age}ger. The contention of the ld. counsel is that this mistake is not of such a magnitude as to deprive him of his livelihood by simple order of disengagement. The ld. counsel for the respondent, however, highlighted the fact that the interview of the said police S.I. was to be done under the orders of the CAT and by non-appearance of the candidate the Commission has suffered a loss of ^{its} image and had also to explain the same. Keeping all these facts into account,

the action of the respondent cannot be said to be such as to
be called ^{as} interference. It was open to the concerned
applicant to move for contempt if it was actually felt that
the order of termination amounted to disobedience to the
interim direction issued by the Tribunal vide its order dated
20-9-91. That has not been done. In this application also
there is no challenge to this order of termination passed
in the case of the applicant though there is ^{oral} order dated ^{with respect to}
25-4-92. We therefore find that this application of applicant
No.5 is liable to be dismissed as devoid of merit. However
it shall be open to the applicant No.5 to make a representation
to the respondents but that shall not give further cause
of action to take this matter again. Application accepted as
above i.e. instructions against applicant nos 1 to 4 and dismissed
with respect to applicant No.5. No costs.

(B.K.SINGH)
Member (A)

(J.P.SHARMA)
Member (J)

23.8.93