

CENTRAL ADMINISTRATIVE TRIBUNAL, NEW DELHI

OA.2472/91

Date of Decision: 25.09.1992

Shri Rohtash

Applicant

Shri Ashok Aggarwal

Counsel for the applicant

Versus

Union of India & Ors.

Respondents

Shri P.H. Ramchandani

Counsel for the respondents

CORAM:

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 Reporter or not? Yes

JUDGEMENT

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

The applicant, who has worked as Casual Worker
in the office of the Chief Engineer (North Zone),
New Delhi has filed this application, praying that
taking into account his long and satisfactory service
since 20.4.83, the respondents be directed to absorb
him against regular Class-IV post and pay him regular

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wages from the date of initial appointment.

2. According to the applicant, he has been in the employment of the respondents since 20.4.83 as a Class-IV Daily Rated Worker and is presently posted at H.P.T. Kingsway Camp, Delhi. He is paid daily wages at the rate of Rs.28.25 per day. He has stated that he had been submitting representations and the respondents had given him assurance that his case for regularisation will be considered as and when regular vacancies arise vide their letter dated 31.7.90 and 6.11.90. However, he was not even called for the interview for regular appointment against Class-IV post in April 1991. He was issued a memo dated 3.4.91 informing him that he did not fulfil the prescribed educational qualifications. He made a representation on 27.4.91 to the Director, attaching the certificate issued by the Government Middle Boys School, Haiderpur in 1973 to prove that he had the requisite qualification of having passed Eighth Standard. He was called for interview on 2.7.91 and was declared successful for regular appointment to Class-IV post. However, no regular appointment has been given to him.

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3. The respondents have stated that the applicant was employed during the period from 20.4.83 to 19.4.84 but back wages had to be paid to him for the period 20.4.84 to 13.9.89 in implementation of the C.G.I.T. Award dated 28.4.87. In his application dated 25.3.91, he had mentioned that he was illiterate and because of this, he was not called for the interview on 18.4.91. After submission of the school certificate, he was called for interview on 2.7.91 but the Selection Committee did not find him suitable for appointment as a Khalasi against a vacant post.

4. We have heard the arguments addressed at the Bar and ^{Ar} have perused the pleadings put forth by the counsel for both parties and the documents placed on record. It is admitted that vacancies were available for regularisation and that the applicant met the eligibility criteria. The learned counsel for the applicant has relied upon the decision of the Orissa High Court in case of Bachan Kumar Sahoo and Others Versus The Orissa State Housing Board 1992(2) SLJ 21, wherein, it was observed that "having ^{Ar}

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employed them for about 7 years, it was unfair on the part of the opposite party - Corporation to require them to appear before a Selection Committee for a test. If a case of their ability, competence was necessary, they stood it satisfactorily during the course of 7 years, they served from 1983/84 to 1990."

The Supreme Court has also reiterated the same view in the case of M.C. Puttaswamy Vs. Union of India, 1992 (19) ATC 292. In this case also, the applicant has been working since 1983 and the respondents have not commented adversely about his work.

5. In the facts and circumstances of the case, the application is partly allowed. The respondents shall consider absorption of the applicant in a suitable post strictly according to his length of service and subject to his meeting the eligibility criteria prescribed under the relevant rules and instructions. No outsiders shall be engaged as Casual Workers till he has been absorbed and his services shall not be terminated in the meanwhile. In case, there are no vacancies in the Unit, in which he has worked, he should be considered for engagement and
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regularisation in the Units under the Ministry of
Information and Broadcasting. These orders shall be
implemented expeditiously and preferably within a
period of three months from the date of receipt of
this order.

6. There will be no order as to costs.

B. N. D. I. Y. A. L
(B. N. DHOUDIYAL) 15/9/92
MEMBER (A)

arrive
25/9/92
(P. K. KARTHA)
VICE CHAIRMAN (J)

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