

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

(5)

Regn.No. OA 2501/91

Date of decision: 30.01.92.

Shri Braham Singh

...Applicant

Vs.

Delhi Administration through
the Development Commissioner
& Another

...Respondents

For the Applicant

...Shri D.S. Jagotra,
Counsel

For the Respondents

...Mrs. Geeta Luthra with
Shri D.N. Goburdhan,
Counsel

CORAM:

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

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

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

JUDGMENT

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

The applicant who has worked as a casual labourer in the office of the respondents since 1986 has challenged the impugned order of termination dated 24.6.1991 and has prayed for his reinstatement with all consequential benefits.

2. We have gone through the records of the case carefully and have heard the learned counsel of both parties. The admitted factual position is that the applicant was due for regularisation pursuant to a scheme prepared by the respondents in compliance with the directions given by the Supreme Court in a Writ Petition filed by Niader against the Delhi Administration. The applicant qualified in the trade test and interview but he was declared medically unfit by the Medical Superintendent concerned. In view of this, his service

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were terminated.

2. The applicant has produced two medical certificates which are not in the proper form according to the respondents. They have contended that as per Rule S.R. 4(2)(c), it is mandatory that "the certificate will not be taken into consideration unless it contains a note by the medical practitioner concerned to the effect that it has been given in full knowledge of the fact that the candidates has already been rejected as unfit for service by a Medical Board, a Civil Surgeon or other Medical Officer". As both the certificates furnished by the applicant were silent about the disclosure of the fact of the earlier Medical examination, they were not taken into account by the respondents.

3. As the applicant has worked in the office of the respondents for over four years, we are of the opinion that the respondents should have given a further opportunity to the applicant to produce medical certificates in the proper form without straightaway terminating his services. In the interest of justice and fairplay, we direct the respondents to reinstate the applicant in service as casual labourer within a period of one month from the date of receipt of this order. They shall give the applicant an opportunity to produce the requisite medical certificates within a period of two months from the date of reinstatement and refer his case to the

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Appellate Medical Board for its opinion thereafter. In case the Appellate Medical Board finds the applicant fit for employment, he should be regularised in a suitable post. In the facts and circumstances of the case, the respondents shall pay back wages to the applicant from the date of termination of his service to the date of his reinstatement within a period of two months from the date of communication of this order.

4. The application is disposed of on the above lines. There will be no order as to costs.

B. N. Dhoundiyal
(B.N. DHOUNDIYAL) 30/11/92
MEMBER (A)

P. K. Kartha
30/11/92
(P.K. KARTHA)
VICE CHAIRMAN (J)

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