

(22)

CENTRAL ADMINISTRATIVE TRIBUNAL
Principal Bench

O.A. No. 321 of 1991

New Delhi, dated the 7th Sept. 1995

HON'BLE MR. S.R. ADIGE, MEMBER (A)

HON'BLE DR. A. VEDAVALLI, MEMBER (J)

Shri Balbir Singh
s/o Shri Sukha,
Farash,
Directorate of plant protection,
Quarantine & Storage,
Ministry of Agriculture,
Deptt. of Agriculture, & Cooperation,
Faridabad (Haryana). APPLICANT

(By Advocate: Shri R.K. Relan)

VERSUS

Union of India through
the Secretary,
Ministry of Agriculture,
Deptt. of Agriculture & Coop.,
Shastri Bhawan,
New Delhi. ... RESPONDENTS
(By Advocate: Shri B.Lall)

ORDER (ORAL)

BY HON'BLE MR. S.R. ADIGE, MEMBER (A)

In this application Shri Balbir Singh, Farash, Directorate of plant protection, Ministry of Agriculture, Faridabad has impugned the order dated 16.7.90 (Annexure A.1) terminating his services under Rule 5(1) CCS (Temporary Service) Rules, 1965 and has prayed for a direction that he ^{be} deemed to have ⁱⁿ continued ~~the~~ service, together with consequential benefits.

/s/

(27)

2. From the materials on record and after ^{hearing} the applicant's counsel Shri Relan, as well as ^{respondents counsel} ~~Shri~~ Shri B. Lall the facts that emerged appear to be ~~that~~ that the applicant was appointed in a temporary capacity as Farash on 20.8.86. In the year 1989-90, a number of warning letters/memos were issued to him for unauthorised absence from duty, photo copies of which are on record, and finding that despite ~~this~~ memos the applicant had not mended his conduct, The Respondents issued the impugned order dated 16.7.90 under Rule 5(1) CCS (Temporary Service) Rules, 1965 removing him from service.

3. It appears that the applicant filed this O.A. on 4.2.91 and an interim order was issued on 5.2.91 after hearing the applicant's counsel Shri Relan, directing the Respondents to consider ^{for appointment} ~~the~~ the applicant ^{as a Farash} in an available vacancy, in preference to his juniors and outsiders, pending disposal of this O.A.

4. Thereafter the applicant had filed an MA-292 of 1993 praying that the interim order be modified to the extent that the applicant be considered ^{for appointment} ~~the~~ against ^{as a} the vacancy of Farash, or any other vacancy in Class IV category, in the identical pay scale of Rs.750-940.

5. This MA was allowed by order dated 4.5.93, and the Respondents were directed to consider the applicant's case for suitable employment ^{as a} ~~as~~ Class IV

M

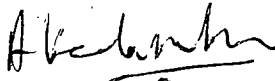
(24)


employee in any available vacancy, in preference to his juniors and outsiders in the pay scale of Rs.750 - 940 appropriate to a Group 'D' post.

6. In implementation of that direction, the Respondents have engaged the applicant as Chowkidar w.e.f. 18. 6.93 and the Respondents counsel Shri Lall has stated during hearing that there have been no complaints ^{about the} ~~in~~ applicant's ^{his} working since ^{his} appointment as Chowkidar.

7. Shri Relan has pressed that the applicant should be given back wages from the date the interim order was originally passed i.e. 5.2.91, or at least initial seniority should be counted from that date. We note that the applicant himself had sought a modification of the interim order dated 5.2.91, and it is in response to his own MA that ^{the} interim order was modified which enabled him to ^{secure} ~~the~~ employment against the post of ^{Chowkidar} ~~Chowkidar~~. It is well settled by the Hon'ble Supreme Court in a catena of decisions, that ^{an} salaries ^{are} admissible only for services rendered, ^{and} where actual work was not put in, no salary is admissible. The applicant's appointment as Chowkidar in response to his own MA 805/93, is therefore a fresh appointment, which ^{we} ~~may~~ make absolute, but beyond that we see no reason in interfering in the matter.

8. This O.A. is ^{disputed of accordingly} ~~dismissed~~. No costs.


(DR.A. VEDAVALLI)
Member (J)


(S.R. ADIGE)
Member (A)