

CAT/7/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
NEW DELHI

O.A. No. 761/91
T.A. No.

199

DATE OF DECISION 7.4.1992

<u>Shri Prakash Chand</u>	Petitioner Applicant
<u>Shri T.C. Aggarwal</u>	Advocate for the Petitioner(s) Applicant
Versus	
<u>Union of India through Secy.,</u>	Respondent
<u>Miny. of I & B & Ors.</u>	
<u>Shri P.H. Ramchandani</u>	Advocate for the Respondent(s)

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The Hon'ble Mr. P.K. Kartha, Vice-Chairman (Judl.)

The Hon'ble Mr. B.N. Dhoundiyal, Administrative Member.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter or not? *No*
3. Whether their Lordships wish to see the fair copy of the Judgement? *No*
4. Whether it needs to be circulated to other Benches of the Tribunal? *No*

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

The applicant, who has worked as a casual labourer and Carpenter on daily-wage basis, has prayed that the respondents be directed not to terminate his services and regularise him as Khalasi.

2. On 3.4.1991, when the application was admitted, the Tribunal passed an interim order directing that the respondents shall not terminate the services of the applicant during the pendency of the application. The interim order has thereafter been continued till the case was finally heard on 16.1.1992. *h*

3. The facts of the case in brief are as follows. The applicant has stated that he has worked under the Director General, All India Radio from 22.12.1987 to 31.8.1989 and thereafter, under the Chief Engineer (North Zone), Akashvani and Doordarshan since 1.9.1989. He has stated that there are four clear vacancies of Khalasi for which the respondents have approached the Employment Exchange on 28.1.1991, ignoring his claim for regularisation even though he is fully qualified for appointment as Khalasi.

3. According to the version of the respondents, the applicant has worked as a casual Carpenter w.e.f. 1.9.1989 in the new studios which were being built at All India Radio, New Delhi. According to them, there are no regular sanctioned posts in which the applicant could be regularised. They have also denied the applicant's averment that there is any proposal to appoint fresh candidates ^{after} ~~terminating~~ his services. They have, however, admitted that he was recruited through Employment Exchange as a daily-wager.

4. As regards the prayer of the applicant that he should be appointed against the post of Khalasi, the respondents have stated that the applicant has not submitted an application for the said post, and that he does not also qualify for consideration against the said post.

5. We have gone through the records of the case and have considered the rival contentions. The respondents have

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stated that for the post of Khalasi, the recruitment rules provide that the candidate should have passed VIII standard and that he should possess a good physique. According to them, the applicant does not meet the required qualifications for the same.

6. The respondents have stated that from 22.12.1987 to 31.8.1989, the applicant has worked for a total period of 409 days. When we add to this Saturdays, and Sundays, a view can be taken that he has completed 206 days in two consecutive years upto 31.8.1989. In our opinion, the applicant should be continued as a casual labourer in any vacancy available in the office of the respondents so long as they need the services of casual labourers and in preference to persons with lesser length of service and outsiders.

7. In the light of the above, the application is disposed of with the direction that the respondents shall continue^{to engage} the applicant as a casual labourer so long as a vacancy exists and in preference to persons with lesser length of service and outsiders. He should also be considered for regularisation in ^a suitable Group 'D' post in accordance with his qualifications and experience and as per the Office Memoranda issued by the Department of Personnel & Training in this regard. The interim order already passed is hereby made absolute with the aforesaid modifications. There will be no order as to costs.

B. N. Dhoundiyal
(B.N. Dhoundiyal)
Administrative Member

P. K. Kartha
(P.K. Kartha)
Vice-Chairman(Judl.)