

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL

NEW DELHI

O.A. No. 1044
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1991

(3)

DATE OF DECISION 8.10.91.

<u>Shri Naresh Kumar</u>	Petitioner
<u>Shri K.S. Balashankara</u>	Advocate for the Petitioner(s)
Versus	
<u>Union of India</u>	Respondent
<u>Shri P.P. Khurana</u>	Advocate for the Respondent(s)

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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 ?
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

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

This OA has been filed by Shri Naresh Kumar against the impugned oral order of the Administrative Officer, Directorate of Sugar, New Delhi, terminating his services as Casual Labourer.

2. The applicant has stated that he has worked as a casual worker from December 1988 to October 1989 and again from January 1990 to October 1990 and was given jobs like distribution of Dak and operating of duplicating machine and miscellaneous work in the Receipt and Disposal Section. He was made to discontinue his

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service from October 1989, but he was called again and was asked to serve from January 1990. He served till October 1990, when he was again disengaged though an assurance was given to him that he would again be engaged in service. In April 1991, he was told that he would not be absorbed in the service. He has alleged that three persons, namely, S/Shri Rehtas Kumar, Vinod Kumar and Raghwan^{Bv} Dutt were appointed on 19.11.1990 and now some other persons have been appointed through one Contractor, Shri Chadha. He has claimed that in terms of OM.No.51016/2/90-Estt(C), dated 7.2.90, issued by Department of Personnel and Training, all Casual workers who have rendered 240 days of service in the last one year or in any of the preceding years were to be considered for regularisation. He has prayed that the respondents be directed to disengage the new appointees and reappoint and eventually regularise him.

3. The respondents have stated in their counter affidavit that the applicant has worked only for 22 days in 1988; 188 days in the year 1989; and 174 days in the year 1990 and that he does not fulfil the eligibility criteria for regularisation. The Casual Labourers are appointed for short period as and when the need arises and three such labourers appointed after his disengagement are continuing in service only under a Stay Order issued by the Tribunal. There is no longer any work available for these workers. As regards the contractor, he has been engaged only for the maintenance of the desert coolers and he has employed his own labourers.

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4. We have gone through the records of the case and heard the learned counsel for both parties. In the case of H.P. Singh Vs. Reserve Bank of India, AIR 1986 SC 132, the Supreme Court has observed that Sundays and Holidays should also be taken into account for the purpose of computing the number of 240 days. If this is done, the service put in by the applicant would work out to more than 240 days during the period December 1988 to October 1989. During 1990, the period of service would work out to more than 206 days. The applicant has stated in his rejoinder that three vacancies for Grade 'D' post have arisen due to voluntary retirement of one Shri Ganguly on 10.5.91 and ^{promotion of Bv} Shri P.N. Mehta and Govind Singh as L.D.C. He has also alleged that a Contractor has been engaged to defeat the purpose of law and in order to raise the plea that there are no vacancies.

5. In the conspectus of the facts and circumstances of the case, the termination of the services of the applicant, while retaining three persons with lesser ^{Bv} length of service is not legally sustainable. The application is disposed of with the direction to the respondents to re-engage the applicant as Casual Labourer as long as vacancy exists and persons junior to him are retained in service. His case for regularisation in Group 'D' post shall be considered after taking into account his service including Sundays and Holidays as aforementioned, in any existing vacancy or any vacancy which might arise in the future.

5. There will be no order as to costs.

B. N. Dhoundiyal
(B.N. DHOUNDIYAL) 8/10/91
MEMBER(A)

P. K. Kartha
(P.K. KARTHA) 10/10/91
VICE CHAIRMAN(J)