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**CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH**

OA No.974/2004
MA No.811/2004

New Delhi this the 13th day of April, 2005.

HON'BLE MR. SHANKER RAJU, MEMBER (J)

Udeyvir Singh,
S/o Shri Bhagwan Singh,
R/o Village Nagla Sahu,
Post Office: Raya,
Distt. Matura (UP).

-Applicant

(By Advocate Shri D.N. Sharma)

-Versus-

1. Union of India,
through the Secretary to Govt. of India,
Ministry of Defence,
South Block,
New Delhi.

2. The Quarter Master General (ST),
Quarter Master General's Branch,
(Q 1 (c) Branch,
Army Headquarters,
D.H.Q, Post Office,
New Delhi.

3. The Officer Commanding,
338 (I), Coy., Army Supply Corps.,
(Supply) Type 'A'
Mathura-Cantt.

-Respondents

(By Advocate Shri D.S. Mahendru)

ORDER

Heard the parties.

2. Applicant seeks re-engagement and regularisation against Group
'D' post.

3. Learned counsel for applicant contended that applicant had worked
from 1.8.1992 to 30.4.1993 and continuously from 1994 till 1997 and

thereafter as well. It is stated that the juniors who had lesser service had been regularised whereas applicant has been meted out a differential treatment which is anti thesis to Articles 14 and 16 of the Constitution of India.

4. In the reply, respondents' counsel denied the contentions and stated that applicant though applicant had worked with the respondents but never worked continuously for 240 days in two consecutive years, which does not make him eligible for regularisation.

5. Learned counsel for applicant in the rejoinder re-iterated his pleas and stated that he has rendered 270 days continuous service, which has been denied by respondents in the supplementary affidavit.

6. It is trite law that when it is alleged that a daily wager had worked continuously for two years on the strength of a certificate which does not certify the continuity of service in two consecutive years for 240 days on denial by respondents the burden is on applicant to establish the aforesaid working, which is a pre-requisite for regularisation.

7. On careful consideration of the rival contentions having regard to the orders passed in RA-260/2003 in OA-566/2003 – **Ratan Singh Pal v. Union of India & Others**, decided on 17.9.2003 by this Bench it has been held that once a denial for continuous working for 240 days in two consecutive years is made by the respondents burden shifts to applicant to establish to the contrary.

8. As applicant has miserably failed to establish the same the juniors who had completed 240 days service in two consecutive years have been regularised would not be infraction to the doctrine of equality as both the classes are different. However, I find that the respondents have averred the fact that applicant had not worked for 240 days as per the record available and in absence of any contrary material to rebut, applicant who does not fulfill the eligibility criteria is not entitled for regularisation.



9. In the result, finding the claim of applicant as bereft of merit, OA is dismissed. No costs.

S. Raju
(Shanker Raju)
Member (J)

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