

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI

OA No. 1280/92 .. Date of decision: 29.10.92

Sh. Rajender Singh .. Applicant

Versus

Delhi Administration & Ors. Respondents.

For the applicant .. Sh. Ashok Aggarwal, Counsel

For the respondents .. Sh. B.R. Prashar, Counsel.

CORAM

Hon`ble Sh. P.K. Kartha, Vice Chairman (J)

Hon`ble Sh. B.N. Dhoundiyal, Member (A)

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

JUDGEMENT

(Delivered by Hon`ble sh. B.N. Dhoundiyal,

Member (A)

The applicant Shri Rajender Singh, who is working as Casual Labourer in the office of the respondents since January, 1970 has challenged the impugned order of termination dated 19.7.91 and has prayed for his reinstatement with all consequential benefits.

2. According to the applicant, he was due for regularisation pursuant to the scheme prepared by the

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respondents in compliance with the directions given by the Supreme Court in the Writ Petition filed by one Niader against the Delhi Administration, which was disposed of by orders dated 29.9.88 and 6.3.90 (Vide writ Petition Nos. 98, 99, 216, 938 and 940/88). He qualified in the trade test and the interview but was declared medically unfit by the Medical Superintendent as he was suffering from Tuberculosis. By the impugned order dated 19.7.91 he was informed that as he had been reported to be suffering from TB, his services were terminated. He was given 30 days for submitting his representation for reexamination by the Medical Board with certificates from two qualified Doctors stating that he was not suffering from any disease. He produced two medical certificates which did not mention that he is now free from Tuberculosis disease as he was still under ~~the~~ treatment. 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 candidate has already been rejected as unfit for service by a Medical Board, Civilian 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.

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3. We have gone through the records of the case and have heard the learned counsel for both parties. It is undisputed that TB is a curable disease and if sufficient time is given, complete recovery can be effected. Instructions have been issued for providing domiciliary treatment in the outpatient department of the Government hospital. The applicant had worked in the office of the respondents for many years. The respondents had taken a technical view by giving him just 30 days to produce the certificate of fitness, knowing very well that TB requires a long term treatment. Moreover, in case of employees, who have rendered years of service, it cannot be said that the examination is on his first entry into the Government service. In a similar case decided by this Tribunal on 30.1.92 in OA 2501/991 (Shri Brahma Singh Vs. Delhi Administration), it was held that the respondents should have given an opportunity to the applicant to produce medical certificate in the proper form without straightforwardly terminating the services of the applicant.

4. We reiterate the same view. Taking into account the services put in by the applicant with the respondents and taking into view the curable nature of disease, the termination of the services of the applicant at this belated stage would cause irreparable loss and suffering to the applicant and his family.

5. We, therefore, order and direct as follows:

1. We set aside and quash the impugned order of

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termination of services of the applicant. The respondents shall reinstate the applicant in service as casual labourer within a period of one month from the date of receipt of this letter.

2. The respondents shall give an opportunity to the applicant to produce the requisite medical certificates within a period of three months from the date of reinstatement in service and refer his case to the Appellate Medical Board thereafter.
3. In case the Appellate Medical Board finds the applicant fit for service, he should be regularised in a suitable post.
4. The respondents shall pay back wages to the applicant from the date of termination of his service to the date of reinstatement in service within a period of two months from the date of receipt of this order.
5. There will be no order as to costs.

B.N.Dhundiyal
(B.N.Dhundiyal) 29/10/92

Member(A)

P.K.Kartha
29/10/92
(P.K.Kartha)

Vice Chairman(J)