

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL,
PRINCIPAL BENCH, NEW DELHI.

7

DA.No.1694/92

Date of Decision:16.10.1992.

Shri Sanjay Kumar

Applicant

Shri V.P. Sharma

Counsel for the applicant

Versus

E.S.I.C. through its
Director-General,
Panchdeep Bhawan
and others.

Respondents

Shri G.K. Nayyar

Counsel for the respondents.

CORAM:

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? *yes*
2. To be referred to the Reporters or not? *yes*

J U D G E M E N T

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

This application has been filed by Shri Sanjay Kumar, who is aggrieved by the action of the respondents in not allowing him to continue working after 16.3.92, though no written orders to this effect were received and his juniors and similarly situated persons were retained in service.

Av

9

2. The applicant was sponsored for the post of Chowkidar in the Indira Gandhi E.S.I. Hospital, by the Vivek Vihar Employment Exchange and was duly selected by an Interview Board constituted for this purpose. An appointment letter was issued to him on 2.7.91 and he joined his duties as Chowkidar on 6.7.91. According to him, he continued working upto 15.3.92 without any break in service and to the entire satisfaction of his superiors. However, after 16.3.92, he was not allowed to perform his duties. No written order of disengagement was communicated to him, while his juniors were retained in service. He made representations for regularisation of his services on 24.3.92 and 27.4.92, which were not replied to. The applicant claims that he was sponsored by the Vivek Vihar Employment Exchange meant for regular workers and not through Kamla Market Employment Exchange, which is meant for casual labourers. He prays that his disengagement w.e.f. 15.3.92 may be declared illegal and the respondents be directed to consider his regularisation as Chowkidar.

3. On 7.7.92, an interim order was passed by this Tribunal directing the respondents to consider engaging the applicant as Casual Labourer, if vacancies exist, and in preference to persons with lesser length of service and outsiders. The

An

interim order has been extended from time to time, till date.

4. We are of the view that this matter can be disposed of, at the admission stage itself and hereby proceed to do so.

5. The respondents have contended that the requisition to the Employment Exchange was sent for appointment in a leave vacancy and out of six candidates included in the panel, the applicant was the junior most. Only two candidates from the panel were employed and others did not respond to the offers of appointment. The services of the applicant was terminated on 16.3.92, as no vacancy was available to be filled. They have, however, admitted that the applicant has worked for 203 days from 6.7.91 to 15.3.92. They have confirmed that no appointment either on regular basis or on daily wage basis has been made in the cadre of Chowkidar on or after 16.3.92.

6. We have gone through the records of the case and heard the learned counsel for both parties. The order issued to the applicant on 2.7.91 appoints him as Chowkidar on daily wage basis, consequent upon his qualifying in the interview held on 12.3.91 and does not mention that the appointment is against leave vacancy. *Ln*



7. In the conspectus of the facts and circumstances of the case, the only relief that can be given to the applicant is to direct the respondents to consider engaging him as casual labourer, if vacancy exists, and in preference to persons with lesser length of service and outsiders. For this purpose, any vacancy arising not only as Chowkidar, but also other categories of Casual Labourer shall be taken into account.

8. The interim order dated 7.7.92 is hereby made absolute.

9. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 16/10/92
MEMBER (A)

P.K. Kartha
(P.K. KARTHA)
VICE CHAIRMAN (J) 16/10/92

kam141092