

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

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OA.1785/92

DATE OF DECISION:13.11.92

Shri Surinder Singh

Applicant

Versus

Union of India through
Secretary, Ministry of
Agriculture and others.

Respondents

Shri K.L. Bhatia,

Counsel for the applicant

Shri M.L. Verma,

Counsel for the respondents

CORAM:

THE HON'BLE VICE CHAIRMAN SHRI P.K. KARTHA.

THE HON'BLE MEMBER SHRI B.N. DHOUNDIYAL.

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter, 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 OA has been filed by Shri Surinder Singh
against the notice dated 29th June, 1992, issued by
Deputy General Manager (Admn.), Delhi Milk Scheme,
New Delhi, dispensing with his service as Casual Labourer.

2. The applicant has been working as Daily Paid Mate
in the DMS under the Ministry of Agriculture since 1987.
His terms and conditions of service are governed by
Certified Standing Orders, which provide for regularisation
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of service of casual labourers after they have worked for 240 days in one year. A favourable decision was given in his case in OA No.1302/88 by this Tribunal on 2.8.91. A CCP No.161/92 has also been filed by the applicant for non-implementation of these orders. The applicant alleges that the impugned order dated 29.6.92 taking him off from duty on the ground that he is involved in a vigilance case, is due to the above litigation. A Show Cause notice has been issued which does not specify any charge. Though he had given a reply to the notice, he had come to know that his services were likely to be terminated on 13.7.92. He has prayed that the impugned order dated 29.6.92 be set aside and quashed and the respondents be directed to allow him to attend to his duty, full salary and allowances for the entire period of his non-engagement be paid to him and his services be regularised as per Standing Orders.

3. On 30.7.92, this Tribunal has passed an interim order directing the respondents not to terminate the services of the applicant. This interim order has been extended from time to time, till date.

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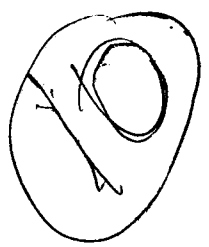
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4. The respondents have contended that the Delhi Milk Scheme(DMS) is an Industry under the Industrial Disputes Act and in accordance with the Judgement of the Full Bench of this Tribunal in the case of A. Padmavally Vs. C.P.W.D. 1990(3) SLJ (FB) (CAT) 544, the applicant should have exhausted the remedy available to him under the Industrial Disputes Act. They have admitted that the applicant is governed by Clause IV of the Certified Standing Orders but have referred to misdemeanour on his part, particularly his involvement in the attempted pilferage of 346 Milk poly packs on 27.6.92. This fact has been admitted by the applicant himself in his reply dated 6.7.92 to the Show Cause notice dated 29.6.92. The regular staff deployed on this route who connived with the applicant have since been placed under suspension and proceedings under Rule 14 of the CCS(CCA) Rules, 1965, have been initiated against them.

5. We have heard the arguments addressed at the Bar and perused the pleadings put forth by the learned counsel for both parties and the documents placed on record. According to Clause 15 of the Certified Standing Orders for the employees of the D.M.S. in case of mis-conduct, the following disciplinary action has been prescribed:-

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"15. Disciplinary Action

- (i) A worker guilty of mis-conduct may be:
 - (ii) Warned or censured, or
 - (b) fined subject to and in accordance with the provisions of the Payment of Wages Act, 1936; or
 - (c) suspended by the Chairman for a period not exceeding 4 days, or services terminated without notice.
- (ii) For order under Sub-clause (b) or sub-clause(c) of clause (i) shall be made unless the worker concerned has been informed of the alleged mis-conduct or given an opportunity to explain the circumstances alleged against him."

6. In this case, no opportunity was given to the applicant to defend the allegations against him.

7. In the conspectus of the above facts and circumstances of the case, the application is disposed of with the following orders and directions:-

1. The impugned notice for termination of service dated 29.6.92 is hereby set aside and quashed.
2. The respondents shall continue to engage the applicant as Daily Paid Mate on the existing salary, extending to him all the benefits enjoyed by his colleagues in terms of the Judgement of this Tribunal in OA 1302/88, decided on 2.8.92.

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3. The respondents shall be free to take appropriate action against the applicant, if so advised, in terms of clause 15 of the Certified Standing Orders, after issuing him proper charge-sheet and giving him an opportunity to explain the circumstances alleged against him.

8. The above orders shall be implemented, expeditiously and preferably within a period of one month from the date of receipt of this order. There will be no order as to costs.

B.N. Dhoundiyal
(B.N. DHOUNDIYAL) 18/11/92
MEMBER(A)

P.K. Kartha
13/11/52
(P.K. KARTHA)
VICE CHAIRMAN(J)

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