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IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

Regn.No. OA-1879/92

Date of decision: 18.11.1992

Shri Babu Lal

.... Applicant

Versus

Union of India through
Secretary, Central Board
of Excise & Customs,
New Delhi & Another

.... Respondents

For the Applicant

.... Shri A.K. Behra, Advocate

For the Respondents

.... Shri P.H. Ramchandani,
Senior Advocate

CORAM:

The Hon'ble Mr.P.K. Kartha, Vice Chairman(J)

The Hon'ble Mr.B.N. Dhoundiyal, Administrative Member

1. Whether Reporters of local papers may be allowed to see the Judgment? *Yes*
2. To be referred to the Reporters or not? *No*

JUDGMENT

(of the Bench delivered by Hon'ble
Shri P.K. Kartha, Vice Chairman(J))

The applicant has worked as a Casual Labourer continuously from 10.8.1983 to 17.4.1990, when the respondents sought to terminate his services by an oral order. The respondents have admitted in their counter-affidavit that the applicant has worked for 138 days in 1983, 337 days in 1984, 358 days in 1985, 357 days in 1986, 354 days in 1987, 320 days in 1988, 352 days in 1989, and 90 days in 1990. His services were terminated on the ground that there was no vacancy to accommodate

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him. The respondents have not adversely commented upon the work and the conduct of the applicant.

2. We have gone through the records of the case and have heard the learned counsel for both the parties. The respondents have admitted that during the year 1988, a meeting of the Selection Committee for regularisation of daily-wage workers was held on 24.10.1988. The name of the applicant was considered for the post of Farash and was placed at serial No.3 of the panel. Since there was no vacancy, his name could not be considered for regularisation. The respondents have stated that there was no vacancy due to the reduction in the sanctioned strength of the office of the respondents by the Staff Inspection Unit.

3. In our opinion, the impugned order of termination of the services of the applicant is not legally sustainable. In Durga Prasad Tiwari Vs. Union of India, 1990 (3) SLJ (CAT) 94, this Tribunal has held that casual labourers who have worked for 2-4 years, should be considered for regularisation of their services irrespective of whether their names had been sponsored by the Employment Exchange. For this purpose, a unit of the Ministry/Department, should not be taken in isolation and the Ministry/Department should be taken as a single unit.

4. In the subsequent decision of Raj Kamal and Others Vs. Union of India, 1990 (2) SLJ 169, the Tribunal reiterated

the aforesaid observations and the respondents were directed to prepare a rational scheme with a view to regularising casual labourers who had worked for more than 240 days. The following observations made by the Tribunal in Raj Kamal's case are pertinent:-

".....Since the Department of Personnel and Training is monitoring the implementation of the instructions issued vide O.M. dated 7.6.1988, the Union of India through that Department, should undertake to prepare a suitable scheme for absorbing such casual labourers in various ministries/departments and subordinate and attached offices other than the Ministry of Railways and Ministry of Communications. Their absorption should be on the basis of the total number of days worked by the persons concerned. Those who have worked for 240 days/206 days in the case of six days/five days week, respectively, in each of the two years prior to 7.5.1988, will have priority over the others in regard to absorption. They would also be entitled to their absorption in the existing or future vacancies. Those who have worked for lesser periods, should also be considered for absorption, but they will be entitled to wages for the period they actually worked as casual labourers. No fresh engagement of casual labourers against regular vacancies shall normally be resorted to before absorbing the surplus casual labourers. The fact that some of them may not have been sponsored by the Employment Exchange, should not stand in the way of their absorption. Similarly, they should not be considered ineligible for absorption if at the time of their initial engagement, they were within the prescribed age-limit."

5. In the light of the above, the application is disposed of with the following orders and directions:-

- (i) The impugned oral order of termination of the applicant is hereby set aside and quashed. The respondents are directed to reinstate the applicant as casual labourer
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immediately, but in no event, later than one month from the date of communication of this order.

- (ii) The applicant shall be considered for regularisation in Group 'D' post of the Ministry of Finance and its attached and subordinate offices, treating all of them as a 'single unit' for the purpose of regularisation. Till this is done, he shall be accommodated as a casual labourer in the Ministry of Finance and its attached and subordinate offices, depending on the availability of vacancy.
- (iii) In the facts and circumstances of the case, we do not direct payment of back wages to the applicant.
- (iv) There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 18/11/82
Administrative Member

P.K. Kartha
18/11/82
(P.K. Kartha)
Vice-Chairman(Judl.)