

Central Administrative Tribunal
Principal Bench, New Delhi

(9)

OA No.224/92

New Delhi this the 31st day of August 1995.

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)
Hon'ble Mr R.K.Ahooja, Member (A)

Prakash Paswan
Qr.No.430, F-Block
Mangolpuri
New Delhi - 110 083.

...Applicant.

(Through Shri K.K.Rai, advocate)

Versus

1. Delhi Administration
'through its Lt. Governor
Raj Niwas
Delhi-110 054.
2. Office of the Development Commissioner
through the Development Commissioner
5/9 Under Hill Road
Delhi-110 054.
3. Office of the Deputy Conservator of Forests
through its Deputy Conservator
Kamla Nehru Ridge
Delhi-110 007.

...Respondents.

(None present)

O R D E R (Oral)

Hon'ble Mr A.V.Haridasan, Vice Chairman (J)

The applicant who was working as casual Gardener under the Delhi Administration is aggrieved by the termination of his services by order dated 24.6.1991 (Annexure-C) on the ground that he was found on medical examination unfit for service as he was reported to be suffering from pulmonary tuberculosis, and the rejection of his appeal against the order although he produced three medical certificates from competent medical officers to the effect that he was free from such a disease. The scheme for regularisation of casual labourers was framed pursuant to the directions of the Supreme Court in a writ petition No.WP 9669/83. The applicant as also similarly situated persons were entitled to the benefits. After filing this application, on the basis of an interim

2

(10)

order, the respondents ~~though after notice under the contempt petition~~
(~~was issued~~ ^{nam} ^{re} ~~had~~ engaged the applicant with effect from 10th March 1992.

The applicant has prayed that the impugned order may be quashed and the respondents may be directed to ^{regularise} ~~reinstate~~ the applicant in service.

2. The respondents in their reply have sought to justify the impugned order on the ground that the certificates produced by the applicant were not in accordance with the S.R.4 and therefore the rejection of the certificates and the termination of the applicant's services were fully justified.

3. We have perused the pleadings and the annexures in this case and have heard the arguments of Shri K.K.Rai, counsel for the applicant. As none appeared for the respondents, we did not have the privilege of hearing the respondents. However, this is not the only case of this sort. There have been many other cases of similar nature during the same period regarding the same class of employees under the same administration, whose services were terminated on the ground that all of them were suffering from pulmonary tuberculosis. An identical case ~~was~~ OA No.1161/92 ~~which~~ ^{allowed} ~~was disposed of~~ by a bench of this Tribunal on 9.1.1992 wherein the impugned order of termination ~~was~~ ^{was} identical with the one in this case and the respondents were directed to reinstate the applicant therein, if found fit by a medical board, with consequential benefits


4. Having given ^{our} ~~an~~ anxious thought to the facts and circumstances emerging out of the pleadings, we are of the considered view that this is a ~~fit~~ ^{fit} case where the termination of the services of the applicant is unjustified. Tuberculosis being a curable disease, it was not just and proper for the respondents to have terminated the services of the applicant who had already rendered long years of service though on casual basis. Further when the applicant had produced medical certificates of fitness from three competent medical officers they should not have rejected the same on flimsy grounds that it was not in


(11)

accordance with the S.R.4. If the respondents had doubts about the genuineness of the certificates, they should have subjected the applicant to examination by a medical board consisting of more ^{doctors} members than one. Under the circumstances, we have no hesitation to set aside the impugned order in this case.

5. The applicant has already been re-engaged in service w.e.f. 1.3.1992. Therefore, we are of the considered view that the interest of justice will be met if the respondents are directed to subject the applicant to a medical examination by a competent medical board within a reasonable time frame and then consider his regularisation.

6. In the result, in view of what is stated above, we dispose of the application directing the respondents to continue the applicant in casual service; to have him examined by a competent medical board within a period of 2 months from the date of receipt of communication of this order, and if he is found fit, to appoint him on regular basis ^{during} and the period in which he was out of service shall be treated as period ^{for all purposes} ~~rendered~~ ^{on duty} excepting for payment of pay and allowances.


(R.K. Ahooja)
Member (A)


(A.V. Haridasan)
Vice Chairman (J)

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