

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

C.C.P. NO. 346/94
IN O.A. NO. 383/92

(A)

New Delhi, this the 25th day of January'1995

Hon'ble Justice Shri S.C.Mathur, Chairman

Hon'ble Shri P.T.Thiruvengadam, Member(A)

1. Nand Lal S/o Shri Tek Chand
Working as Chowkidar,
Quality Assurance Estt., (Navy)
Faridabad.
2. Brahm Singh,
S/o Shri Nanak Chand,
working as Chowkidar,
Quality Assurance Estt(Navy)
3. Sardar
S/o Shri Ramzani
working as Chowkidar,
Quality Assurance Estt., (Navy)
Faridabad.

....Applicants

By Advocate Shri K.B.S.Rajan

Versus

1. Shri V.K.Kapur,
The Secretary,
Department of Defence Production,
South Block,
New Delhi 110 011
2. Lt.Gen.R.Shivdasani,
The Director General of Quality Assurance
Ministry of Defence,
South Block,
New Delhi-110 011
3. Comdr S.C.Arora,
The Director,
Directorate of Quality Assurance
West Block No.5, R.K.Puram
New Delhi 110 066.
4. Cdr. A.K.Duper
The Officer-In-Charge
Quality Assurance Estt., (Navy)
House No.64,
Sector 16-A
Faridabad

.....Respondents.

By Advocate Shri P.H.Ramchandani

[Signature]

ORDER (Oral)

Hon'ble Justice Shri S.C.Mathur, Chairman

15

The applicant alleges disobedience by the respondents of the Tribunal's Judgement and order dated 21-9-1993 passed in his O.A. 383/92.

2. In the aforesaid OA grievance of the applicant was that he was a temporary Chowkidar since 1984 and his service had not been regularised. The Tribunal disposed of the OA issuing direction to the respondent "to consider the cases of the petitioners for regularisation on merits and in accordance with Law and in disregard of the ban."
3. In the reply filed on behalf of the respondents it has been stated that there was no regular post available, and therefore the matter got delayed. It is further stated that the matter was taken up with the concerned authorities including the Ministry of Defence and Ministry of Finance and since there was ban on recruitment it was proposed to transfer 4 posts of Chowkidar from CQAE(WE) Bangalore. In this manner posts were created to comply with the direction. Thereafter order was issued on 3rd January 1995 offering regular appointment to all the three applicants.
4. Learned Counsel for the applicants has submitted that in the letter offering appointment it is mentioned that the regularisation is being done w.e.f. 23-12-1994, but the applicant became entitled to regularisation w.e.f. August 1984.
5. Before a person may be regularised on a post it is necessary that the regular post should be available. It is not stated by the applicant that any regular post was available in August 1984. We are, therefore, unable to accept this submission of the Learned Counsel that Respondents were obliged to regularise the services of the applicants w.e.f. August 1984.

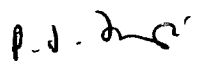
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16

6. The Learned Counsel for the applicant submits that the direction of the Tribunal was to regularise in accordance with law and under law the regularisation was possible even in August 1984. He relies upon the guidelines issued by the Ministry, copy of which has been filed as Annexure A-8 to the Original Application. Clause (xi) of this Annexure reads:- "All Administrative/Ministries Departments should undertake a review of appointment of Casual workers in the office under their control on a time bound basis so that at the end of the prescribed period, the following targets are achieved;

- a) All eligible Casual workers are adjusted against regular posts to the extent such regular posts are justified;
- b) The rest of the Casual workers not covered by a) above and whose retension is considered absolutely necessary, and is in accordance with the guidelines, are paid emoluments strictly in accordance with the guidelines.
- c) The remaining Casual workers not covered by a) & b) above are discharged from service." The submission of Learned Counsel is that under the above guidelines regularisation was required to be made if regularisation was justified. There is no direction to regularise an employee even though regular post is not in existence.

7. In view of the above, the application is rejected.
No order as to costs.


(P.T. Thiruvengadam)
Member (A)


(S.C. Mathur)
Chairman

cc.