

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH: NEW DELHI

OA No. 452/92 .. Date of decision: 24.02.93.

Sh. Rishi Pal Singh .. Applicant

Versus

Union of India & Ors. .. Respondents

For the applicant .. Sh. A.K. Bhardwaj, Counsel.

For the respondents .. Sh. V.S.R. Krishna, Proxy
Counsel for Sh. M.L. Verma,
Counsel.

CORAM

Hon°ble Sh. P.K. Kartha, Vice Chairman (J)

Hon°ble Sh. B.N. Dhoundiyal, Member (A)

1. Whether Reporters of local papers may be allowed
to see the judgement ? *Y*

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

J U D G E M E N T

(Of the Bench delivered by Hon°ble Sh. B.N.
Dhoundiyal, Member (A)

This O.A. has been filed under Section 19 of the
Central Administrative Tribunals Act, 1985 by Sh. Rishi Pal
Singh, against the impugned verbal order dated 25.06.89
terminating his services as a casual Civilian Switch Board
Operator.

(S)

2. After his retirement from the Army in 1986, the applicant joined on 10.7.79 as a casual Civilian Switch Board operator (CSBO) under the office of the Commandant, Meerut Sub Area, Signal Company Meerut. He was sponsored through the Employment Exchange and was duly selected by a Selection Board and by appointment letter dated 9.7.87 he was given appointment for a period of 60 days. Though technical breaks were given to him after each spell of 60 days, he continued to work from 10.7.87 to 25.6.89. Under the policy in vogue, his case should have been forwarded to the Adjutant General Branch Army H.O. on completion of 180 days of service for regularisation. On completion of 180 days of service, he was appointed as a temporary C.S.B.O., thus becoming eligible for induction against regular vacancies. He was also eligible to be considered for the reserved quota pf 6.5% for ex-servicemen. During the applicant's tenure and even after his termination, several freshers with no experience and no technical qualifications have been recruited. The following reliefs have been prayed for :

(a) "That the Hon^{ble} Tribunal would be pleased to set aside and quash the order of termination of his services verbally on 25.06.1989, in furtherance of the appointment order dated 27.04.1989.

(b) That Hon^{ble} Tribunal would be pleased to direct the respondents to reinstate him as Civilian Switch Board Operator, with all consequential benefits in the grade of Rs. 950-1500.

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(c) That the application may please be allowed with the cost of the litigation.

(d) That any other order which their eminent lordships of Hon'ble Tribunal deem fit and proper in the existing circumstances of the case may please be passed. "

3. The respondents have stated that the applicant was a contractual labourer engaged for a specific period, on specific contractual terms and he was given a notice in writing as his contract expired on 16.12.89. Different spells of employment are to be treated as fresh appointment as permission to employ C.S.B.Os on casual basis was accorded for a specific period by the GOC-in-Charge. He is not entitled for appointment on regular basis as he never completed 180 days of service continuously. He was never sponsored by the Employment Exchange, Bareilly against regular vacancies.

4. We have gone through the records of the case and heard the learned counsel for both parties. The issues raised in the present application are similar to those raised in O.A. No. 1983/90 which was decided on 25.10.91 by a Bench of this Tribunal in which both of us were parties. In a catena of judgements, it has been held that technical breaks given to casual labourers for a limited purpose should be disregarded. A similar view has been taken by Principal Bench of this Tribunal in case of Satya Pal Singh Vs. Union

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of India in O.A. No. 707/89 decided on 16.8.90. In that case also the applicant's services as casual Switch Board Operator had been terminated by the respondents while outsiders had been engaged. In that case also the respondents had not denied that the applicant had worked for over 300 days as Switch Board Operator. The Bench had made the following observations :-

" If the services of an employee are terminated arbitrarily, and not on the ground of unsuitability, unsatisfactory conduct or the like, which would put him in a class apart from his juniors in the same service, a question of unfair discrimination may arise, notwithstanding the fact that in terminating his services, the appointing authority was purporting to act in accordance with the terms of appointment (vide General Manager, Government Branch Press and Another Vs. O.B. Balliappa, 1979 SCC (L&S) 30). We see no merit or justification for convening the meetings of Selection Board for engaging casual labourers once a Selection Board has found a candidate suitable for engagement. This may give rise to the charge of arbitrariness and unfairness. "

5. We reiterate the same view. The termination of the services of the applicant while providing for engagement of outsiders is not legally sustainable and is violative of the provisions of Articles 14 and 16 of the Constitution.

6. In view of the facts and circumstances of the case, we hold that the applicant is entitled to succeed and the application is disposed of with the following directions:

- (i) The impugned verbal order of termination dated 25.06.89 is hereby set aside and quashed;
- (ii) The respondents are directed to reinstate the applicant in service as Switch Board Operator expeditiously and preferably within a period of 3 months from the date of communication of this order.
- (iii) We do not, however, direct payment of backwages to him.

There will be no order as to costs.

B.N. Dhoundiyal
(B.N. Dhoundiyal) 24/2/93
Member (A)

P.K. Kartha
(P.K. Kartha) 24/2/93
Vice Chairman (J)