

(16)

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

OA 638/1992

• New Delhi, this 24th day of March, 1995

Shri Justice S.C.Mathur, Hon'ble Chairman
Shri P.T.Thiruvengadam, Hon'ble Member(A)

Shri Rakesh Kumar
WA-92, Gali No.15
Shakarpur, Delhi-110 092 .. . Applicant

Shri M.M.Israily, Advocate (not present)

versus

Delhi Administration, through

1. Chief Engineer
Irrigation & Food Control Department
2. The Executive Engineer
KEIS, Phase III Division
3. The Executive Engineer (I&P) Dn
Flood Control Department
4. The Superintendent Engineer
Flood Control & Drainage Division V

All situated at ISBT Building
Kashmere Gate, Delhi-6 .. . Respondents

By Advocate Shri Dinesh Agarwal (not present)

ORDER(oral)

Shri Justice S.C. Mathur

This case has been taken up on a second call.

No one has appeared from either side. We have
examined the records and we are proceeding with and
deciding the case finally on merits.

2. The applicant seeks reinstatement to the post

(2)

original application, the applicant has asserted that he was first engaged as Peon-cum-Beldar on 1.8.88. He claims to have worked upto 5.10.91. He has mentioned the periods for which he worked in para 4.5 of the OA. The total period works out to 370 days. It is not clear from the applicant's pleadings whether he worked only for 370 days or for a long period. He has stated that he has mentioned the period on the basis of a certificate issued to him. He has also stated that he was discriminately shown absent on a number of days and his salary was also not paid for such days. From this, the impression appears to be that he worked continuously from 1.8.88 to 5.10.91 but break-ups were shown in the service record. He has relied upon the judgement of the Supreme Court in WP 253/88-Prakash Chand & Ors. Vs. Delhi Admn. & Ors. in support of the relief claimed by him.

3. The respondents in their reply have not admitted the applicant's claim that he has worked for 370 days. The periods for which the applicant actually worked has been shown in para 10 of the reply. This works out to 276 days only. It also appears from the respondents assertion that the applicant never completed 240 days in a calendar

(3)

(55 days). According to the respondents, the applicant was engaged during the flood/monsoon period in exigency of service. It is stated that no regular vacancy is available against which the applicant may be regularised.

4. We find no reason to disbelieve the factual statement stated in the reply especially in view of the vague allegation made by the applicant. On facts stated in the reply, the applicant has acquired no right to either continue in the department or to be considered for regularisation. The order of the Supreme Court relied upon by the applicant reads as follows:

1. ^{a scheme} "The respondents are directed to frame for the regularisation of the services of all the petitioners and persons similarly situated who have been in service of more than one year. Until the scheme is so framed and the question of regularisation of the petitioners is considered in the light of the scheme and final order are passed thereon by the respondents, their services shall not be terminated until the question of regularisation is so determined. The petitioner shall be paid with effect from 1st November, 1988 the minimum salary payable to a person regularly appointed and doing the same kind of work in the Department."

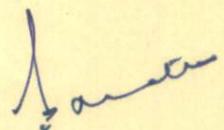
5. The benefit of the judgement was available only to those who had completed one year of service. On the basis of the facts stated by the applicant himself, he has not completed one year

(4)

service by the date on which the judgement was passed by their Lordships. Even thereafter, the applicant has not completed 240 days in any calendar year.

6. In view of the above, in our opinion, the applicant has no right for reinstatement or for regularisation.

7. In the circumstances, the original application is dismissed without any order as to costs. Interim order, if any operating, shall stand discharged.



P.J. 26

(P.T.Thiruvengadam)
Member (A)
24.3.95

(S.C. Mathur)
Chairman
24.3.95

/tvg/