

(17)

CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH

OA No.911/92
MP No.3962/92

New Delhi this the 1st day of April, 1997.

Hon'ble Dr. A. Vedavalli, Member (J)
Hon'ble Mr. R.K. Aahooja, Member (A)

Chander
S/o Shri Teka Ram,
R/o Village Kurar Ibrihimpur,
Tehsil & Distt. Sonepat.
..... Applicant

(By Advocate Shri Sunil Malhotra, though none
appeared)

Versus

1. Union of India,
Through Controller General Defence,
Accounts, R.K.Puram,
New Delhi.
2. The Controller of Defence Accounts,
(Pension Disbursing) Meerut Cantt. (U.P.).
3. The Defence Pension Disbursing Officer,
Kakroli Road, Sonepat.

..... Respondents

(By Advocate Sh. M.M. Sudan)

1. To be referred to the Reporter or not? Yes.
2. Whether it needs to be circulated to all
Outlying Benches of the Central Administrative
Tribunal? No.


(DR. A. VEDAVALLI)
Member (J)

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(By Advocate Sh. M.M. Sudan)

ORDER
(Hon'ble Dr.A.Vedavalli,Member(J))

None appeared for the applicant even on the second call. However, the learned counsel for the respondents Shri M.M. Sudan was heard and the material papers and documents placed on record have been perused.

2. The applicant, a casual labourer on daily wages, is aggrieved by the termination of his services by the impugned order of the respondents dated 24.1.91 w.e.f. 28.1.91. The main reliefs sought by the applicant are:



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- i) quashing of the said impugned order of termination;
- ii) reinstatement in service as Chowkidar/Class IV/Group 'D' employee w.e.f. 28.1.91, and
- iii) regularisation in the said post w.e.f. 11.11.83.

3. Admitted facts of this case, briefly stated, are that the applicant an ex-serviceman was engaged as a daily wages casual labourer w.e.f. 11.11.83 and not against the post of regular peon/chowkidar. However, he completed service of more than 240 days on the date of his disengagement by the respondents though it was not continuous. Aggrieved by the said termination/disengagement the applicant has filed the present O.A.

4. The applicant in this application has submitted that he has completed more than the requisite service of 240 days in two consecutive years. Therefore, he contended that he has attained temporary status and ought to have been regularised. Instead, the respondents have terminated his services without following the procedure prescribed under the rules. He has also submitted that his juniors have been retained in service and he has not been given any opportunity of hearing before the impugned order was



passed by the respondents. He has challenged the said order as being illegal and violative of the principles of natural justice.

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5. The respondents have contested this OA and in their counter-affidavit have referred to Government policy regarding regularisation of the casual labourers, as contained in the relevant instructions, namely:

- i) DPAR OM dated 21.3.79.
- ii) Government letter No.40014/18/84-Est(c) dated 7.5.85,
- iii) D.P. & T OM dated 7.6.88
- iv) CDA (PD) Meerut (Respondent No.2) letter No.AN/VI/CDA(PD)/Sanction/CL dated 30.11.88.

It was submitted that the applicant was over-aged for regularisation and is also not entitled for age relaxation as he was an ex-serviceman and has crossed the upper age limit at the time of his initial engagement. He was disengaged as per the aforesaid Government policy from his casual service and no violation of any rule is involved in the said action. It was further submitted that initial engagement of the applicant itself was due to inadvertence and the individuals alleged by him to be his juniors are only engaged as casual workers on daily wages and not as peons or chowkidars, as stated by him. It was also



submitted that no notice was required to be served on the applicant as he was only a casual labourer at the time of his disengagement. They have prayed for dismissal of the OA in view of the above submissions with costs.

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6. During the course of arguments when the matter came up for hearing before us, learned counsel for the respondents Shri M.M. Sudan has produced a copy of the Ministry of Personnel OM No.49014/4/90Estt.(C) dated 8th April, 1991, which was issued subsequent to the impugned order dated 24.1.92, for our perusal. Copy of the said OM has been taken on record.

Relevant provisions of the aforesaid OM are extracted below:-

"Subject: Regularisation of services of casual workers in Group 'D' posts - Relaxation of employment exchange procedure and upper age limit

The undersigned is directed to refer to this Department's OM No.49014/4/77-Estt.(C) dated 21st March, 1979 wherein the conditions for regularisation of casual workers against Group 'D' posts were prescribed. The policy with regard to the engagement and remuneration of casual workers in Central Government offices has been reviewed from time to time and detailed guidelines in the matter were issued vide OM No.49014/2/86-Estt.(C) dated 7th June, 1988.

Requests have now been received from various Ministries/Departments for allowing relaxation in the conditions of upper age limit and sponsorship through employment exchange for regularisation of such casual employees against Group 'D' posts, who were recruited prior to 7.6.88, i.e., date of issue of guidelines. The matter has been considered and keeping in view the fact that the casual employees belong to the economically weaker section of the society



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and termination of their services will cause undue hardship to them, it has been decided, as a one time measure, in consultation with the Director General Employment and Training, Ministry of Labour, that casual workers recruited before 7.6.88 and who are in service on the date of issue of these instructions, may be considered for regular appointment to Group 'D' posts, in terms of the general instructions, even if they were recruited otherwise than through employment exchange and has crossed the upper age limit prescribed for the post, provided they are otherwise eligible for regular appointment in all other respects."

7. The applicant who was re-engaged w.e.f. 16.7.92 by the respondents as a casual worker by virtue of an interim order of this Tribunal dated 4.3.92 has also filed a MP-3962/92 seeking almost the same reliefs as prayed for in the present O.A. The said MP was to be disposed of along with this OA as per the order of this Tribunal dated 5.8.93. This MP is contested by the respondents in their reply to the same.

8. However, learned counsel for the respondents during the course of hearing has very fairly stated at the Bar that in case the applicant makes a detailed representation to the respondents regarding his grievances they will have no objection to consider the same on merits in the light of the aforesaid OM dated 8.4.91 and the other relevant rules and instructions.

9. In view of the above, this O.A. is disposed of with a direction to the respondents that in the event the applicant submits a detailed and self contained representation to the respondents regarding





his grievances contained in the present OA and the aforesaid MP within one month from the date of receipt of a certified copy of this order they should consider the same on merits in the light of the aforesaid OM dated 8.4.91 and other relevant rules and instructions, if any, and pass a detailed and reasoned order in accordance with law and communicate the same to the applicant within two months from the date of receipt of the said representation. Thereafter if any grievance still survives, it will be open for the applicant to agitate the same in appropriate original proceedings in accordance with law, if so advised.

10. The O.A. and the M.P. are disposed of accordingly. No costs.

~~Roshan-~~
(R.K. AHOOJA)
MEMBER (A)

A. Vedavalli
(DR. A. VRDAVALLI)
MEMBER (J)

'Sanju'