

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL
PRINCIPAL BENCH, NEW DELHI.

OA.No.921/92

Date of Decision:18.12.1992

Shri Prakash Chand

Applicant

versus

Union of India and others

Respondents

Shri A.K. Bhardwaj

Counsel for the applicant

Shri Jog Singh

Counsel for the respondents

CORAM:

The Hon'ble Mr. P.K. KARTHA, Vice Chairman(J)

The Hon'ble Mr. B.N. DHOUNDIYAI, Member(A)

1. Whether Reporters of local papers may be allowed to see the Judgement? *Yes*
2. To be referred to the Reporter, or not? *Yes*

JUDGEMENT

(of the Bench delivered by
Hon'ble Member Shri B.N. DHOUNDIYAI)

This OA has been filed by Shri Prakash Chand, challenging the impugned verbal order dated 12.3.92, whereby, his services as casual labourer were terminated.

2. According to the applicant, he was engaged as casual labourer (Messenger) in the office of Under-A Secretary, Planning Commission w.e.f. 15.11.89, along with 66 others. His services were terminated w.e.f. 21.3.90 vide verbal order of the same date. He was reengaged on 1.8.91, and was allowed to work till 12.3.92, when his services were terminated again. He has alleged that his juniors, namely, S/Shri Mamchand and Beer Singh have been retained in service. He has prayed that the verbal termination order dated 12.3.92 be set aside and quashed and the respondents be directed to absorb him in service in Group 'D' post on regular basis with all consequential benefits.

3. On 3.4.92, this Tribunal passed an interim order directing the respondents to reconsider engaging the laborer

(8)

applicant as casual labourer, if vacancy exists and in preference to his juniors and outsiders. This order has been continued till date.

4. The respondents have stated that he was engaged as casual labourer and not as messenger w.e.f. 1.8.91 to 31.1.92, when his services were discontinued under verbal orders. Daily rated casual labourers are engaged against short term requirements and for occasional seasonal work. It is not always possible to decide seniors and juniors in such cases and they are continually recruited for short periods for specific jobs. The applicant was disengaged as his services were no longer required by the respondents. He cannot be absorbed in group 'D' posts on regular basis as he does not fulfil the requisite conditions. They have also alleged that he has stolen photocopies of official records and has managed to mark his attendance beyond 31.1.92 by fraudulent means and in connivance with some officials of Planning Commission. The integrity of the applicant is doubtful and he cannot be reengaged as casual labourer. The respondents have not commented in the counter on the claim of the applicant that he had also worked for them from 15.11.89 to 21.3.90. However, in the reply to the CCP No. 227/92, they have stated that they do not have any records for this period as records relating to the engagement of casual labourers are destroyed after one year.

5. We have gone through the records of the case and heard the learned counsel for both parties. As regards the policy of engagement of casual workers in Central Government offices, the Department of Personnel and Administrative Reforms have issued instructions vide OM dated 26.10.1984 and 7.6.1988, which provide that

the services of a casual labourer may be regularised in the Group 'D' posts, provided, interalia, he has put in two years as a casual worker with 240 days or more of service as such, during each year (206 days in case of offices ^{Anw} observing 5 days a week). The cases of such casual labourers were considered by a Bench of this Tribunal, of which, one of us (Shri P.K. Kartha) was a party, in case of Raj Kamal and Others Versus Union of India in OA 2306/89 decided on 16.2.90; 1990(2) SLJ CAT 169, wherein, it was observed that:-

"Those who have worked for 240 days/206 days (in the case of six days/five days week, respectively), in each of the two years prior to 7.6.1988, will have priority over the others in regard to absorption. They would also be entitled to their wages till their absorption in the existing or future vacancies. Those who have worked for lesser periods, should also be considered for absorption, but they will be entitled to wages for the period they actually worked as casual labourers. No fresh engagement against vacancies of casual labourers shall normally be resorted to, before absorbing the surplus casual labourers. The fact that some of them may not have been sponsored by the Employment Exchange, should not stand in the way of their absorption. Similarly, they should not be considered ineligible for absorption if at the time of their initial engagement, they were within the prescribed age-limit."

5. Following the ratio of the above Judgement, the application is disposed of, with the following orders ^{Anw}

and directions:-

(a) The respondents shall maintain a Live Casual Labour Register in which the names of those who have worked as casual labourers with them shall be entered in accordance with their length of service. The name of the applicant in this application shall also be registered as such, after proper verification of the service claimed by him.

(b) For the purposes of identifying vacancies of casual labourers, those in other Ministries/Departments/ attached/subordinate offices will also be considered in accordance with the scheme prepared by the Department of Personnel.

(c) The applicant shall be engaged as casual labourer in preference to those with lesser length of service and outsiders.

(d) The respondents are directed not to induct fresh recruits as casual labourers overlooking the preferential claims of those who have already worked with them.

(e) The interim order passed on 3.4.92 is hereby made absolute.

(f) There will be no order as to costs.

B.N. DHOUNDIYAL
(B.N. DHOUNDIYAL) 18/12/92
MEMBER(A)

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P.K. KARTHA
(P.K. KARTHA) 18/12/92
VICE CHAIRMAN(J)