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CAT/7/12

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL  
NEW DELHI

O.A.NO. 1453/93.

DATE OF DECISION 3.9.1993

SHRI SUBHASH DWIVEDI, Petitioner

SHRI P.P. KHURANA, Advocate for the Petitioner(s)

Versus

Union of India & Others, Respondent

SHRI J.C. MADAN, Advocate for the Respondent(s)

CORAM

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

The Hon'ble Mr. B.S. Hegde, Member (J)

1. Whether Reporters of local papers may be allowed to see the Judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether it needs to be circulated to other Benches of the Tribunal ?

JUDGEMENT

[DELIVERED BY HON'BLE SHRI B.S. HEGDE, MEMBER (JUDICIAL)]

This application is filed by the applicant under  
Section 19 of the Administrative Tribunals Act, 1985 against

*By*  
the ~~proposed~~ proposal of the respondents to surrender the sole  
post of Tradesman (E) Pump Operator and consequential termina-  
tion of the applicant from the said post and prayed for the

following reliefs :-

(1) Restrain the respondents from surrendering

the sole post of Tradesman (E) Pump

Operator.

(2) Direct the respondents to confirm the

applicant in the grade of Tradesman (E)

Pump Operator or in the alternative

direct the respondents to give the bene-

fits of re-deployment of surplus staff

scheme to the applicant and send him

to the S-surplus Cell for re-deployment.

2. The applicant was employed on daily wages

as Tradesman (E) Pump Operator with the Respondents

with effect from 15.4.1989. Since he was not being

regularised, he had filed O.A. No. 2680/90 which was

decided on 31.3.1992. During the pendency of the

said writ petition, the petitioner was regularised

pursuant to the Tribunal's order. Tribunal in that

order had directed that the seniority of the appli-

cant in the post of Pump Operator shall be reckoned

from the date of his initial appointment as Tradesman (E)

Pump Operator i.e. 15.4.1989.

3. The present petition has been filed apprehending that the sole post of Tradesman (E) Pump Operator is likely to be abolished and the services of the applicant is proposed to be terminated.

4. The stand of the Respondents, in their reply, is that nine posts, including the post of Tradesman (E) Pump Operator, were sanctioned on 11th September, 1989 for operation and maintenance of the Plant. These posts were filled up in a phased manner. The Plant has not been functioning right after being taken over by the SEC from M/s MAN of Germany due to various factors including non-availability of spares and degradation of certain components of the Plant. Hence, the role of Tradesman (E) Pump Operator has become insignificant. His job is such that it does not require a skill of qualified person.

Accordingly, with the concurrence of the Finance, it has been decided to abolish the post of Tradesman (E) Pump Operator alongwith 5 other posts in the Centre as matching savings for establishment of Solar Energy Information Network (SOLARNET) under the G-15 Project. The new posts created by the Centre are part of the international commitment under G-15 Project etc.

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5. However, at the same time, the Respondents denied the contention of the applicant saying that it is incorrect to state that his services will be terminated. On the other hand, they will recommend the services of the applicant for Surplus Cell of the Department of Personnel for further redeployment.

6. The short issue for consideration is whether the Respondents are justified in placing the services of the applicant at the disposal of the Surplus Cell of the Department of Personnel & Training for redeployment in the facts and circumstances of the case. It is true that the applicant has completed his probation period on 25.2.1992. The applicant sought in the prayer that he may be confirmed as Tradesman (E) Pump Operator or in the alternative direct the respondents to give the benefits of redeployment of surplus staff scheme.

7. Learned counsel for the Respondents, Shri Madan, drew our attention that the Respondents have already conceded the request of the applicant as prayed for.

*Bhagat*

Though it is true that the post is being abolished but at the same time keeping in view the past services of the applicant, his services will be placed at the

disposal of the Surplus Cell of the Department of Personnel and Training for re-deployment.

The Learned Counsel for the applicant submitted that since the post of Tradesman (E) Pump Operator existed immediately after the completion of his probation i.e. 25.2.1992, it is incumbent upon the respondents to confirm him in that post at that point of time. No decision was taken by the Respondents to abolish the post of Tradesman (E) Pump Operator or any other post. The learned counsel for the applicant also drew our attention that it is on record that those who have been appointed in a temporary capacity in the year 1989 have been confirmed in the year 1991 (Annexure A-9). Therefore, the contention of the Respondents that since the post is being abolished, it is not possible for them to confirm the applicant. Accordingly, they placed his services at the disposal of the Surplus not Cell Scheme does not appear to be convincing and justified. If the applicant's service is not confirmed in the Respondent's Office, even if he is at the disposal of the Surplus Cell Scheme, unless he is re-employed in any other organization of the Government of India

immediately he would not get salary till such re-deployment. Since the decision to abolish the post has been taken subsequent to the completion of the successful probation of the applicant, it is incumbent upon the respondents to confirm him in the post of Tradesman (E) Pump Operator and then place him at the disposal of the Surplus Cell for further action.

8. In the light of the above, we are satisfied with the contention of the learned counsel for the applicant and in view of what has been stated above, we hereby direct the respondents to confirm the applicant immediately after the completion of the satisfactory probation period i.e. 25.2.1991 and in case they abolish the post of Tradesman (E) Pump Operator, they may place the service of the applicant at the disposal of the Surplus Cell Scheme of the Ministry of Personnel & Training for re-deployment as prayed for. In conclusion, we allow this petition and direct the respondents to pass suitable orders in this regard confirming the applicant after the completion of his probation period preferably within a

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period of two months on receipt of this order.

There will be no order as to costs.

*B.S. Hegde*  
(B.S. Hegde) 379/93  
Member (J)

*B.N. Dhundiyal*  
(B.N. Dhundiyal) 379/93  
Member (A)