

CENTRAL ADMINISTRATIVE TRIBUNAL, PRINCIPAL BENCH

Original Application No.2484 of 1993

New Delhi, this the 14th day of July, 1999

Hon'ble Mr.A.V.Haridasan, Vice Chairman (J)  
Hon'ble Mr. N. Sahu, Member(Admnv)

Kishanlal Kamboj, S/o Shri Shanker Lal,  
aged about 27 years, R/o A-15, Mir Dard  
Road, Behind Gandhi Market, New Delhi - APPLICANT

(By Advocate Shri O.P.Kshatariya)

Versus

Union of India through

1. Director General, Doordarshan, Mandi House, New Delhi-110001.
2. Director, Delhi Doordarshan Kendra, Sansad Marg, New Delhi-110001.
3. Shri Sripal Singh through Director Door Darshan, Sansad Marg, Scienic Section, New Delhi-110001 - RESPONDENTS

(By Advocate - None)

O R D E R (ORAL)

By Haridasan, VC(J).-

The applicant - a person belonging to a scheduled caste - commenced service as Casual Labourer Artist under the respondents on 1.10.1985. When juniors to the applicants, going by date of first engagement, were being absorbed, leaving out the applicant, the applicant filed O.A.No.443 of 1993. When that OA came up for hearing on admission, the Tribunal issued an interim order directing the respondents to allow the applicant to continue in service and empanel him as such for regularization, giving him the benefit including scale of pay and allowances as given to persons who have been empanelled. That OA was finally disposed of by an order dated 3.5.1993 directing the authority to

consider the case of the applicant in the light of the scheme. It was also observed that the authority would bear in mind the allegation made by the applicant that persons who were junior to him have been regularized. It was directed that if the authority decide to reject the claim of the applicant it should give reasons thereof. Pursuance to the above directions of the Tribunal in its order in OA 443/93 the 2nd respondent issued the impugned order in July, 1993 (Annexure-A-1) wherein it was stated that as the applicant, when he was first engaged on 1.10.1985, did not attain the age of 21 years prescribed in the Recruitment Rules for appointment to Group 'D' post, he was given seniority as Casual Labourer only with effect from 5.10.1986 on his attainment of the age of 21 years. The applicant states that as per the Scheme the regularization is to be made on the basis of seniority reckoned with reference to the date of first engagement as Casual Labourer and as there was no lower age limit fixed for engagement of Casual Labourers, the impugned order is unsustainable in law. It is alleged that the respondents have discriminated against him in retaining respondent no.3, who was first engaged on 11.11.1985, being junior to the applicant, while denying the engagement to the applicant and not considering him for regularization. With the above allegation the applicant has filed this OA for a direction to the respondents to regularize the services of the applicant treating the date of his first engagement i.e. 1.10.1985 for the purpose of regularization with consequential benefits.

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2. The respondents seek to justify the lowering of the seniority of the applicant as Casual Labourer to the 44th position on the ground that on 1.10.1985 when the applicant was first engaged he was below the age of 21 years, which is the minimum age limit prescribed in the Recruitment Rules for Recruitment to Group 'D'. For the purpose of denying the applicant the seniority as Casual Labourer and not considering him for regularization reckoning his seniority as Casual Labourers with effect from 1.10.1985 the only reason stated is that on 1.10.1985 he had not attained the age of 21 years. No rule or instruction has been brought to our notice to show that for engagement as Casual Labourer one should attain the age of 21 years. It is apparent by the very action of the respondents in engaging the applicant on 1.10.1985 when he had not attained the age of 21 years that there was no such requirement under any rule. As per provisions of the scheme for regularization of Casual Labourers on Group 'D' posts evolved by the respondents, the regularization is to be done on the basis of the seniority of casual service. The applicant undoubtedly was senior to respondent no.3, as respondent no.3 was engaged on 11.11.1985 whereas the applicant was first engaged on 1.10.1985. The impugned order, therefore, is arbitrary, irrational and unsustainable in law.

3. In the light of what is stated above, we allow the application in part and set aside the impugned order Annexure-A-1. The respondents are

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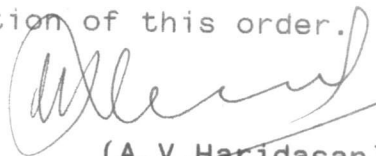
directed to count the seniority of the applicant as Casual Labourer with effect from 1.10.1985 and consider him for regularization with effect from the date on which the 3rd respondent or any person who had lesser length of service than the applicant has been considered for regularization and if he is found not otherwise unsuitable for such regularization to regularize him in service on a post with effect from the due date subject to the condition that on the date of such regularization he should have attained the age of 21 years. The applicant shall also be entitled to all consequential benefits. The exercise of the aforesaid direction shall be completed and consequential orders passed, within a period of two months from the date of communication of this order.

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(N. Sahu)  
Member (Admnv)

rkv.



(A.V. Haridasan)  
Vice Chairman (J)