

OPEN COURT

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD
ADDITIONAL BENCH AT ALLAHABAD

* * * *

Allahabad : dated this 4th of November, 1996

Original Application No.360 of 1996

District : Varanasi Cantt

CORAM:-

Hon'ble Mr. S. Das Gupta, A.M.

Hon'ble Mr. T.L. Verma, J.M.

Kuldip Tiwari son of Sri Satya Dev Tiwari

Qr. No.19, MES Colony, Varanasi Cantt.

By Sri OP Gupta, Advocate)

. Applicant

Versus

1. Union of India through the Secretary
Ministry of Labour, New Delhi.
2. Regional Provident Fund Commissioner, Nidhi
Bhawan, Sarbodaya Nagar, Kanpur U.P.
3. Regional Provident Fund Commissioner,
Sub Regional Office, Employees Provident Fund,
Bhawishya Nidhi Bhawan, Ashok Bihar,
Phase I, Pahariya, Varanasi.
4. Sri Vijay Shanker, son of Sri Ram Ferañ
R/o Moti Lal, Kankrit Sleeper Plant, Khalispur
P.S. Khalispur, Distt. Varanasi.

. Respondents

W.L.

O R D E R (O_r_a_l_)

By Hon'ble Mr. S. Das Gupta, A.M.

This application has been filed under Section 19 of the Administrative Tribunals Act 1985 seeking a declaration that the action of the respondents in asking the applicant not to come for duty from 26-9-1993 is illegal and for a direction to the respondents to take work from the applicant regularly and to pay him salary from June, 1993 onwards.

2. When the case came up for admission, we heard learned counsel for the applicant. The averments in the OA are that the applicants are appointed as electrician/pump operator in the office of respondent no.3. The respondent no.3 ~~is~~ sent requisition to the Employment Exchange to sponsor the names of suitable candidates for filling the aforesaid posts on temporary basis. The applicant was one of the candidates sponsored. After interview, he was placed at Serial No.1 of the merit list and on 23-3-1993 an appointment letter was issued to him. The appointment was only for a period of 60 days after the date of joining. The applicant claims that he had requested the respondent no.3 to issue the appointment letter with the condition that his services would be terminated only after regular appointment is made or the post is abolished and he was assured by respondent no.3 that necessary steps were ^{being} taken by him in this regard. The applicant joined on 13-3-1993 and started working on that post. On expiry of 60 days, he was allowed to continue on the post but on 26-9-1993

wl.

he was asked not to come to the office by respondent no.3, thereby terminating his services w.e.f. 26-9-1993. The applicant has alleged that subsequently a large number of appointments have been made on the posts in succession and no person appointed has been allowed to work for ^{more than} a limited period.

3. From the averments it appears that the applicant had earlier filed an Original Application but the same OA was dismissed as withdrawn when the learned counsel for the applicant sought permission to withdraw the OA. The applicant was, however, granted opportunity to file a fresh application, if the limitation for the cause of action which may be disclosed therein be available.


4. The present application has been filed for the same cause of action i.e. the termination of the services of the applicant and appointment of other person on ad hoc basis. The cause of action arose in 1993 when his services were terminated. Learned counsel for the applicant submits that the cause of action in this case is a continuing one since successive additional appointments have been made after termination of the services of the applicant and, therefore, the OA is within the period of limitation.

5. We are unable to agree. The cause of action insofar as the applicant is concerned, arose in 1993 when his services were terminated and an ad hoc appointment was made in his place. He had actually filed the OA ^{after} and the pleadings in that OA were complete, the applicant

Wf,

chose to withdraw the same and accordingly it was dismissed. The learned counsel for the applicant is now submits that this has been a mistake on behalf of erstwhile counsel to withdraw the application. We cannot accept this explanation since he was engaged by the applicant to represent him and the applicant is bound by any action taken by him on his behalf.

6. AS no fresh cause of action has arisen, the present application is barred by limitation. This application is, therefore, dismissed in limine.


Member (J)


Member (A)

Dube/