

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH, ALLAHABAD.

Allahabad, this the 11th day of September, 2003.

QUORUM : HON.MR.JUSTICE R.R.K. TRIVEDI, V.C.

HON. MR. D. R. TIWARI, A.M.

O.A. No. 07 of 1997

Raj Kumar Yadav S/O Sri Udai Singh Yadav, Ex-Casual Labour
A.G.U.P., Allahabad, R/O 3 Prayag Street, Allahabad.

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..... Applicant.

Counsel for applicant : Sri S. Prasad.

Versus

1. The Union of India through the Comptroller & Auditor General of India, 101, Bahadur Shah Zafar Marg, New Delhi.
2. The Principal Accountant General (A&E), II, A.G.U.P., Allahabad.

3. The Accountant General (A&E)-II, A.G.U.P., Allahabad.

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..... Respondents.

Counsel for respondents : Sri R.C. Joshi.

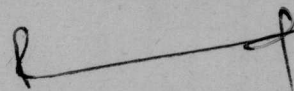
O R D E R (ORAL)

BY HON.MR.JUSTICE R.R.K. TRIVEDI, V.C.

By this O.A. filed under section 19 of A.T. Act, 1985, applicant has challenged the order dated 1.10.1992 (Annexure-I) by which applicant has been informed that he was not found fit for regularisation against group 'D' post.

2. The facts, in short, giving rise to this application are that applicant was engaged as a casual labour in the office of Respondent No.2, Principal Accountant General, U.P. on 1.6.83. He worked there upto Feb.1989. As the applicant was not regularised, he filed O.A. No.947/90 which was disposed of by this Tribunal by order dated 30.9.91. The order of the Tribunal is being reproduced below :-

"....The applicant was appointed as Peon on Casual basis on 1.6.83. He continuously worked in the Department w.e.f. 1.4.85 to 28.10.85 for which the Accounts Officer has issued him a Certificate.



The applicant has stated that he has again worked continuously and regularly in the department for a period of one and half years. The Dy.Accountant General issued a Certificate that the applicant had worked in the department since 1.6.83 till date. Sri U.S. Acharya, Accountant General also gave a certificate to the applicant that the applicant has been working against the vacancy of a peon since 1.6.83 till date. It is seen that there is no denial that the applicant had not worked. Since the applicant had completed more than 240 days of continuous service, he is entitled to be regularised in service. With the above direction/observation, the applicant is allowed and the respondents are directed to regularise the services of the applicant, if has already put in more than 240 days service within two months from the date of communication of this order. Parties shall bear their own costs."

3. Against the aforesaid order, respondents filed review application No.1775/91 which was disposed of by order dated 29.5.92 with the following direction, which is relevant for the present case.

"...From t-his application, it is obvious that the case of the Opp. Party was considered for regularisation but he was not found fit but that does not mean that he can not be considered again. When we made observation that the applicant has completed 240 days, meaning thereby that so far as the working days are concerned, the Opp. Party are eligible for consideration for regularisation. Even if he was rejected once, his case for regularisation can be considered again by saying that he may be regularised within a period of 3 months that we mean to say that his case for regularisation be considered within a period of 3 months and he has to be regularised if there is no legal bar for the same. We never meant to say that the applicant may be given priority over his seniors or those who are waiting for before him. With the above clarification, which in our opinion is implied in our order that the applicant's case for regularisation be done within 3 months and he will

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be regularised provided there is no other legal impediment. The review application is disposed of with the above directions. Parties to bear their own costs."

4. As the order was not complied with, applicant filed Contempt Petition No.2004/92 which remained pending and was ultimately dismissed on 23.1.96. The applicant then filed the present O.A. challenging the order dated 1.10.1992.

5. Learned counsel for the applicant has submitted that a Committee was constituted by Respondent No.2 for considering the matter of regularisation vide his order dated 21.1.87. The Committee consisted of five officers. The Committee considered the case of each of the candidate including that of applicant. In para 13, Committee has referred about the case of the applicant which is reproduced below :-

"....The Committee was informed that a casual worker by the name of Raj Kumar Yadav, was eligible as per eligibility criteria but a separate note of complaint against him had been submitted by AG(A&E)-II, labour incharge regarding misbehaviour and gross intimidation tactics used by Shri Raj Kumar Yadav in May, 1987 when he was removed from the rolls as a result of not having attended as casual worker for about 20 days without any intimation to the G.D. Section. The Committee considered this complaint from all angles and came to conclusion that in view of the gravity of the charge he can not be considered for regularisation. The Committee also feels that immediate disciplinary action should be initiated against Shri Raj Kumar Yadav."

6. From perusal of the aforesaid report of the Committee, it is clear that the applicant had satisfied the eligibility criteria for regularisation but a separate note of complaint was submitted against him by Respondent No.3 regarding his misbehaviour of 1987. The applicant was never

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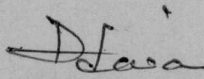
informed about this note submitted by the Respondent No.3 which seriously prejudice this case for regularisation.

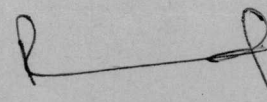
The Committee recommended that immediate disciplinary action should be initiated against the applicant but till date no action has been taken against him. He was not given any opportunity to rebut the allegations though more than ten years have passed. The Committee submitted its report on 10.7.37.

7. Respondents have filed counter reply resisting the claim of the applicant. In para 20 and 21 of the counter respondents have admitted that the Committee was constituted and it has considered the matter of regularisation of the candidates but it has been stated that ~~candidate~~^{applicant} was not found fit after his reading and writing of general Hindi etc.

8. In our opinion, the allegation made in para 20 and 21 of the counter are totally against the report of the Committee and cannot be believed. The applicant was found eligible for regularisation but for the note inducted by Respondent No.3, he ~~would~~^{could} have been regularised like others. As the long time has already elapsed and no action has been taken by the respondents, as recommended by the Committee, in our opinion, applicant may be granted relief claimed by him in this O.A. The order dated 1.10.92 is quashed. The respondents are directed to appoint applicant as Peon in group 'D' without any further delay. ~~However,~~^{for} The applicant will be entitled seniority from the date his juniors were appointed but he will not be entitled for any back wages.

No order as to costs.


A.M.


V.C.

Asthana/