

Open Court.

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH,
ALLAHABAD.

....

Original Application No. 1355 of 2001
this the 5th day of November '2003.

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Ajit Kumar Singh, aged about 25 years, S/o Sri Vikramaditya
Singh, R/o C/o Shivaureat Singh (Gaurd), State Bank of India,
Krishi Sansthan Branch Naini, Allahabad.

Applicant.

By Advocate : Sri S.P. Singh.

Versus.

1. Union of India through the Secretary Defence
(Accounts Control), New Delhi.
2. Controller Defence Accounts (Central Command),
Lucknow.
3. The Joint Controller of Defence Accounts & I/C
Pay Accounts Office (Other Banks), Army Medical
Carps, Lucknow Cantt.

Respondents.

By Advocate : Sri N.C. Nishad.

ORDER

By this O.A., applicant has sought quashing of the
order dated 12.9.2001 (Annexure A-1) whereby his representat-
ion has been rejected on the ground that initially there was
sanction for engagement of casual labour numbering 44, but
the same was reduced to 37 only. Therefore, the seven junior
casual labourers including the applicant being junior most
were dis-engaged on 12.9.2001. The respondents have further
submitted that at present there is neither any job for



engagement of casual labour, nor there is any plan to engage casual labours in the office of the respondent nos. 3 & 4, therefore, the applicant's case for re-engagement is rejected. However, his case will be considered as and when casual labour will be engaged and the applicant will be intimated accordingly. It is this order dated 12.9.2001 which has been challenged by the applicant in the present O.A.

2. It is submitted by the applicant that he was initially engaged through Employment Exchange in March '99 and he had been working since then till 31.5.2001. He was even issued entry passes from time to time. His work was absolutely satisfactory and there was no complaint against him. He worked very sincerely and punctually in the office of the respondents and even though there were IVth class vacancies available in the office of the respondents, which is evident from the Employment News issued in Jan., 2001, but yet his services were dis-continued, which according to the applicant is not permissible. The applicant has further submitted that he had applied for the post of Chaukidar pursuant to the Employment News Paper's advertisement, but till date nothing has been done by the respondents. Even on that score, he has, thus, submitted that the respondents have acted in an arbitrary manner in dis-continuing his services. Being aggrieved, he filed O.A. no. 926 of 2001, which has been disposed off on 6.8.2001 by giving a direction to the respondents to decide the representation of the applicant, but other the six persons whose services were dis-continued alongwith the applicant filed O.A. no. 274 of 2001 before the Lucknow Bench of the Tribunal on the same grounds challenging the termination order dated 23.4.2001 with further direction to regularise their services w.e.f. the date of initial engagement and to deem the applicants as in continuous

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service and pay them all consequential benefits including seniority etc. The said O.A. was decided by Lucknow Bench of the Tribunal on 12.4.2002 by holding as under :

"In view of the discussion made in the immediately preceding paragraph, I am of the view that the oral termination of all the six applicants of the present O.A. on 23.4.2001 is not sustainable having regard to the number of days put in by them as casual labour. The only ground given for their oral termination is want of funds and absence of sanction from the headquarters office. This in my opinion does not constitute a valid ground for their oral termination. It is accordingly directed that the respondents ~~have~~ shall re-engage all the six applicants to the present O.A. as casual labour and shall consider all the six applicants for conferment of temporary status in accordance with the judgment in the case of Suraj mal and others Vs. Union of India (supra) and in the case of Anoop & others Vs. Union of India (supra). These directions shall be carried-out within a period of of three months from the date of receipt of this order."

3. The counsel for the applicant submitted that since all the six persons were similarly situated as that of applicant, therefore, the same order should ~~have been~~ passed in his case also, otherwise it would amount to discrimination, which would be violative of Articles 14 & 16 of Constitution of India.

4. The respondents have, on the other hand, submitted that the judgment passed by Lucknow Bench of the Tribunal has already been challenged by the department by filing Writ Petition no. 1025 (SB) of 2002 before the Hon'ble High Court at Lucknow and the notices have already been issued on 17.7.2002, therefore, the matter is sub-judiced before the Hon'ble High Court at Lucknow.

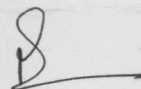
5. I have heard both the counsel and perused the



pleadings as well.

6. The judgments passed by Lucknow Bench of the Tribunal as well as order issued by the Hon'ble High Court against the said order are already annexed with this petition, which means that the matter is sub-judiced in the Hon'ble High Court. Admittedly as per respondents' averments services of all seven casual labourers were dispensed with in the year 2001, out of which six persons approached Lucknow Bench of the Tribunal, while the applicant has filed O.A. before this Tribunal. The applicant's O.A. was not disposed off on merits, but only a direction was given to consider and decide the representation of the applicant, while the O.A. filed by other six similarly situated persons, has been decided on merits by passing a detailed and reasoned order. Since Co-ordinate Bench has already taken a view, the judicial discipline requires that I ~~should~~^{is} either follow the same decision or refer ~~to~~ the matter before the Larger Bench. In the instant case, since the judgment given by Lucknow Bench of the Tribunal has already been challenged before the Hon'ble High Court at Lucknow, therefore, without expressing my views on the matter, it would be in the interest of justice to hold that ultimately whatever view ^{is} taken by the Hon'ble High Court in Writ petition no. 1025(SB) of 2002 in the case of Union of India & Ors. Vs. Ravindra Kumar & Ors., the applicant would also be entitled to the same benefits because he is also ~~On~~ in the same footing as those six casual labourers who had filed O.A. before the Lucknow Bench of the Tribunal.

7. With the above directions, the O.A. stands disposed off with no order as to costs.



MEMBER(J)

GIRISH/-