

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 929 of 2001

Dated : This the 30th day of January, 2004

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

Manoj Kumar Singh son of Jagdish Pd. C/o Shiv Babu Lal,
Resident of 119/463, Darshanpurwa, Kanpur Nagar.

.... Applicant

By Advocate :- Shri K.K. Tripathi for

V E R S U S

1. Union of India through Secretary Ministry of Human resources Development Department of Education, New Delhi.
2. Deputy Director Navodaya Vidyalaya Sarsaul, District Kanpur Nagar.
3. Principal, Navodaya Vidyalaya Sarsaul, Kanpur Nagar.

,.... Respondents.

By Advocate :- Shri Vinod Swaroop

O R D E R

By this O.A. applicant has sought the following relief(s) :-

"To allow the application and quash the order dated 2.7.2001 (Annexure no.A-1) passed by the respondent no.3.

B) A direction may be given to the respondents to continue the applicant in service as Electrician cum plumber and also pay his salary as and when due in future.

C) A direction may also be given to the respondents to regularise the services of the applicant on the post of Electrician-cum-plumber.

D) To pass any other direction as this Tribunal may deem fit and proper on the facts and circumstances of the case in the interest of justice.

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E) Award the cost of the application to the Applicant. "

2. It is submitted by applicant that respondents had issued a notice dated 22.6.1995 (page 13 and 16) which were the rules for Electrician-cum-plumber. Applicant was engaged in the year 1995 on daily wage basis and he continuously worked upto 23.2.1998, certificate dated 23.2.1998(page 18) is annexed in support of this contention. Therefore, he was given regular ~~application~~ ^{appointment} as Electrician cum-plumber vide memorandum dated 31.3.1999(page 27), which was extended but vide memorandum dated 02.7.2001 his services were terminated w.e.f. 2.8.2001 by giving 1 month's notice(page 10).

3. Grievance of applicant is that the post and work both were available and there was no complaint against him, therefore, his services could not have been terminated arbitrarily. It is submitted by applicant that he is entitled to be regularised as he had already completed 240 days . ~~Respondent's contention is re~~

Electrician-cum-

4. Respondents have submitted that there is no regular post of/ plumber, but in order to meet the requirement Principal of ~~the~~ JNV with the ~~approval~~ of regional officer is entitled to ~~an~~ appoint Electrician-cum-plumber on ^Y contact basis. Applicant was also appointed as Eletrician-cum-plumber as per notice dated 22.6.1995 on ^Y contact basis. This was subsequently superceded by new notice dt. 14.5.01. Therefore, his services were terminated and he was advised to join again on terms and conditions as contained in new notice, but he refused to join on new terms. They have further explained that applicant was given extension vide letter for 1 year upto 30.03.01, which was not extended thereafter. He was asked to apply as per new terms (Annexure CA 4), which was refused. They have however submitted that respondents are willing to take the applicant in service provided ~~he~~ is willing to be appointed on revised terms and condition

5. I have heard both the counsel and perused the pleadings. It is seen in the 1st ^{notification} notice dated 22.6.95 the post of Electrician-



-cum plumber was revised to be filled only by way of short term contract for 1 year extendable upto 3 years further extension could only be with the prior approval of Director, Navodaya Vidyalaya Sarsaul, therefore, the rules itself was for short term contract application. Accordingly applicant was appointed on contract basis on 31.3.99(pg 27) which was extended upto 30.1-01. In the meantime, policy was changed and vide notice dated 14.5.2001. As per this order Electrician-cum-plumber was to be paid consolidated salary of Rs. 3000/- on contract basis. In keeping with this, respondent did give offer to the applicant on 10.08.2001(Annexure 4) to apply as per new terms, but instead of giving new application, applicant approached this Tribunal seeking the relief as mentioned above.

6. The order dated 14.5.2001 has not been challenged by the applicant in O.A., so long that order is in existence, applicant cannot claim that he should be appointed by ignoring the same. In fact as per ~~notice~~ ^{Notification B} dated 22.6.1995 also, the post of Electrician-cum-plumber could be filled only on short term contract basis, therefore, applicant cannot claim that his services should be regularised. Yes, so long the work is available and applicant is willing to work as per the policy decision of respondents, applicant's services cannot be terminated, unless of course if applicant commits some misconduct or some other valid eventuality takes place. Respondent have stated categorically in para 17 that they are still prepared to take the applicant back provided he is willing to accept the new terms, therefore, it is open to the applicant to give his application even now to the respondent no.3 stating therein clearly that he is willing to work as Electrician-cum-plumber as per new terms. In case applicant gives such an application to respondent no.3 within 1 month respondent no.3 shall appoint the applicant as Electrician-cum-plumber in accordance with law within 3 months thereafter.



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



Member J

GIRISH/-