

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration T.A.No. 946 of 1987

B.N.Singh

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Applicant

Vs .

Union of India & Others....

Respondents

Hon'ble Mr.Justice U.C.Srivastava,V.C.

Hon'ble Mr.K.Obayya, Member(A)

(By Hon.Mr.Justice U.C.Srivastava,V.C.)

This is a transferred case under Section 29 of the Administrative Tribunals Act, 1985. The applicant has earlier filed a Writ Petition before the High Court Allahabad and by operation of law which has been transferred to this Tribunal. The applicant in the Writ Petition has prayed ~~for~~ a writ, direction or order in the nature of writ of certiorari quashing the impugned order contained in Annexure-9 dated 2.4.1990 and a direction or order in the nature of mandamus be issued directing the opposite parties to regularise the services of the applicant in class IV Cadre and to pay salaries there of with all emoluments and arrears. In the year 1973 the applicant was appointed by the Accounts Officer in the office of Accountant General(U.P.), Allahabad, and the applicant was working as casual labour upto the month of December, 1973. The applicant was thereafter informed that due to the instruction of the Chief Accountant General the casual labour are not required upto a week, and as and when their services were required they will be intimated of the same. As per the allegations of the applicant in the meantime some other casual labours were appointed in place of those labours who were asked to approach the office after one week and again they were orally informed to come after one week. This is how the applicant approached the relevant authorities concerned for 3-4 months continuously, but

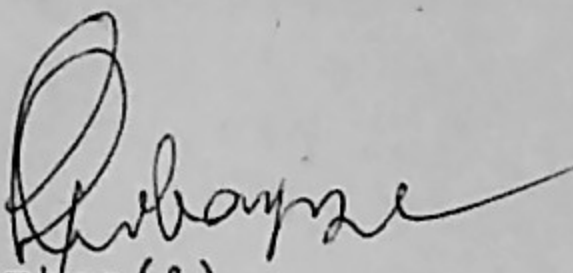
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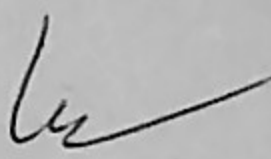
ultimately he was not taken back in service though assurance was given to him. The applicant continued to make efforts and has prayed that he was allowed for personal interview, but no action has been taken in this behalf. The applicant who has been making representation in this behalf was ultimately given a letter in the year 1990 from which he was informed that he has not been taken back in service on the ground that he was a graduate and he was reluctant to do the work of mazdoor and because of his absence and other activities he was not considered to be a fit person and that is why his appointment was not continued.

2. The respondents have admitted the factum of the said letter and have stated that because of the applicant's unsuitability he was informed that he was not a fit person to be retained in service. The respondents have further stated that because the work on which he was kept has been ceased and it was not desirable to re-appoint him and that is why he was not appointed. But there appears to be no denial of the fact that the casual labours were taken even after the exit of the applicant ^{that} and those who were taken along with him and sometime after were retained in service. The applicant was not a government servant and as such he cannot claim for various protections which a temporary employee is entitled to claim. But there was something wrong with the applicant, the applicant could have been apprised of the same. Though it was not very obligatory on the respondents to do so. As the applicant was only a casual labour and during this period he became overage, there appears to be reason that when others were taken back in service or were retained in service though exactly not on the same work but on the other works which was available from time to time the applicant should have also been tested and given an opportunity to work as

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casual labour. Although the applicant has not established a claim for regularisation as there was no screening and the applicant was not tested for the same. But the applicant can even now be given an opportunity and tested for re-appointment. Accordingly^{and} with the direction that not withstanding the age factor/for this purpose treating him to be a casual labour working since then, the respondents may consider the claim of the applicant for re-appointment as casual labour in case those who where taken as casual labour subsequent to the appointment of the applicant or during the period^{when} the applicant worked as casual labour are still working on regular basis or as a casual labour.


Member (A)


Vice-Chairman.

20th Feb., 1992, Alld.

(sph)