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IN THE CENTRAL ADMINNISTRATIVE TRIBUNAL, ALLAHABAD BENCH

Registration T.A.No. 947 of 1987

B.L.Pandey .... 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 filed a Writ Petition before the High Court in the year 1984 praying for issue of a writ or direction in the nature of writ of mandamus directing the opposite parties to regularise the services of the applicant in class IV cadre and to pay salaries with all emoluments and arrears. The applicant after passing the High School examination was taken as casual labour on 28.2.1972 in the Office of Accountant Generala, U.P. and the said appointment was given to him after finding that he has been duly registered in the employment exchange. The applicant served as such for 2 years and 9 months when his services were put an end to. Thereafter the applicant made efforts for getting back in service but he failed. The applicant's complaint is that those who were taken as casual labour subsequent to the appointment of the applicant they were not only retained in service but several of them were regularised and yet the applicant was thrown out from service. As such he filed a writ petition and claiming the relief after failing to get any relief from the departmental authority.

2. The respondents have resisted the claim of the applicant and have pleaded that no discrimination has been done withthe applicant and he was only a casual labour

and was not a regular employee . Even though he has worked for months the princple of 120days and 240 days as per his contention will also not apply to him. They have further stated that the applicant's case was considered for regularisation in the year 1974, but he was not found fit for the same and that is why he was not regularised. If the applicant was not found fit for regularisation for a particular post he should have been considered for appointment on the some other class-IV post or regularisation against some other posts but that too was not done. It is true that the applicant was only a casual labour and he cannot asked for a claim or right as such, but as the casual labours are being employed and retained in service and not regularised. It admittedly has been done and for which an explanation has been given that they have been working from before the appointment of the applicant. But there is no denial of the fact that subsequently this process was also adopted. It appears that the applicant's case has not been considered in two perspective. Although the applicant cannot claimed a post of casual labour which post as such does not exists but he undoubtedly has secceeded in making out the case for consideration to his claim if not for re-instatement then for re-employment notwithstanding the fact that he has become overage. For making him overage the respondents are to share the responsibility as in case he would have been allowed to continue in service. Accordingly the relief as such claimed by the applicant cannot be granted, but the respondents are directed to consider the case of the applicant for re-employment .

Member(A) Vice-Chairman.

20th February,1992,Alld.

(sph)