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CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

Registration No. 344 of 1987

Jagbir Singh applicant.

versus

Union of India, through Secretary, Ministry
of Finance, New Delhi and others. Respondents.

Hon'ble D.S.Misra, A.M.

Hon'ble G.S.Sharma, J.M.

(Delivered by Hon'ble D.S.Misra)

This is an application under section 19
of the Administrative Tribunals Act XIII of
1985 praying for issue of a direction to the
Inspecting Assistant Income Tax Commissioner,
Muzaffarnagar to give an appointment on the
post of Pump Operator and to pay salary at the
rate of Rs.16/- per day.

The applicant's case is that the name
of the applicant was recommended by the
Employment officer, Muzaffarnagar on 5.9.86
for the post of Peon, Taxi Driver and Pump
Operator in the department of the Inspecting
Assistant Income Tax Commissioner Muzaffarnagar
(respondent no.2); that the applicant appeared
before the respondent no.2 on 18.9.1986
and later he was selected for the post of
Pump Operator and a letter of appointment
was issued to the applicant on 23.9.1986
(copy annexure 2); that the applicant received

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the letter of appointment on 26.9.1986 and reached the office of respondent no.2 on 29.9.1986 to join his duty but he was not allowed to do so; that on 30.9.1986, he submitted an application to the respondent no.2 for being permitted to join the said post, copy annexure 3, but he has not received any reply; that the applicant submitted an application to the higher authority, like Prime Minister of India on 15.10.1986 (copy annexure 4) without any result. The applicant has requested for issue of a direction to the respondents that the applicant may be directed to join his duties as Pump Operator and that he may be paid salary at the rate of Rs.16/- per day w.e.f. 23.9.86.

3. In the reply filed on behalf of the respondents, it is stated that an office building and residential flats were constructed by the CPWD, who were also required to maintain the building. The office building was taken over in 1985 and the residential flats were taken over between May to July, 1987; that the CPWD (Construction) Division had not handed over the office building and their residential colonies to the Maintenance Department of the CPWD. There was none to look after its day to day electrical break down and tubewell operation; respondent no.2 sought

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the approval of the Income Tax Commissioner Meerut to keep an electrician on daily wages till the C.P.W.D. were able to provide a man for this purpose; that a letter was sent to the Employment Exchange for sending the names of persons who may work as electrician on daily wages and after receiving the names of individuals and holding an interview the petitioner was found suitable and an appointment order was issued on 23rd September, 1986; that before petitioner could join his duties, the C.P.W.D. Electrical department posted a person to look after that work and in such a situation there was no vacancy with the department to keep an electrician and the petitioner could not be allowed to work; that no representation of the petitioner dated 30.9.1985 was received by respondent no. 2 and that his comments on the representation dated 15.10.1986 of the petitioner addressed to the Prime Minister have been sent to the Commissioner of Income Tax Meerut (copy annexure CA 1).

4. A rejoinder affidavit was filed on behalf of the applicant, in which the allegations made in the claim petition were reiterated.

5. We have heard learned counsel for the parties. Learned counsel for the applicant laid stress on the fact that the applicant was a very poor man belonging to the scheduled

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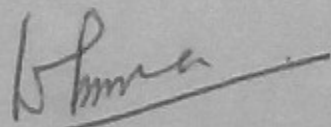
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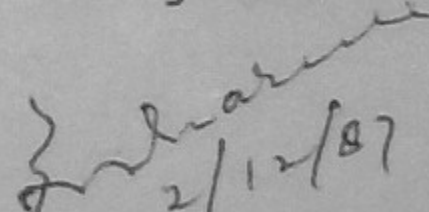
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caste community and deserved compassionate treatment. It was contended on behalf of the respondents that in the absence of the vacancy, it is not possible for them to provide employment to the applicant. The contention of the respondents that the new building complex constructed by the C.P.W.D. is also maintained by them and it is their responsibility to provide an electrician to look after the electrical installation in the building and also to operate the tubewell. There was a short period during which the C.P.W.D. had failed to provide this service and respondent no.2 had obtained the approval of the competent authority to engage some one on daily wages basis. It is not the case of the applicant that the respondent-s have appointed some body else against the post for which he was selected. As the post does not exist, any right which the applicant may have acquired by virtue of his selection has also vanished. The inability of the respondent to provide a job to the applicant can not be considered any deliberate act on their part to deprive the applicant of a job.

For the reasons mentioned above, we are of the opinion that there is no merit in the case of the applicant and the same is rejected without any order as to costs.


A.M.


J.M.

JS. 2.12.1987.