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CENTRAL ADMINISTRATIVE TRIBUNAL, ALIAHABAD BENCH,
ALIAHABAD.

O.A.No.1044 of 1988.

Mohd. ZakariaAppellant.

Versus

Secretary, Ministry of Commerce, & others

..... Respondents.

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

Hon'ble Mr. K. Obayya, A.M.

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

The applicant was appointed in Mail Motor Service, Agra as casual Driver on 3.6.87.. He worked for more than one year from 3.6.87 to 8.7.88 on the post of casual Driver and according to him, as he has completed a period more than one year, in view of Post & Telegraph Circular No.37-11-80STD I dated 4.9.88 received from the Director, Staff, Department of Post & Telegraph the applicant's case for regularisation was to be considered. The said Circular provides that the recruitment against the vacancies caused due to promotion, retirement etc. may be made from amongst the Drivers working on casual basis for more than one year and in accordance with the provisions of recruitment rules.

2. According to the respondents, the applicant was on leave arrangement and was given salary on daily basis i.e. only for those days for which he worked and was not entitled for any leave or other benefits and was neither given any increments etc.. His employment automatically came to an end on 8.7.88. As the regular appointment of the drivers are made from the candidates sponsored by the Employment Exchange and the appointment is made through selection by regular committee. The applicant's name was never sponsored by the Employment Exchange.. As the

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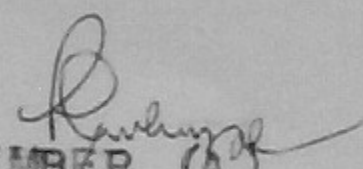
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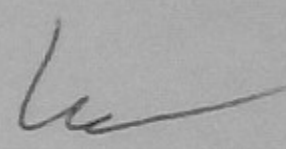
applicant's father was also a Driver, he was asked to work for Sundays and the arrangements were made by the Mail Motor Inspector on the request of the applicant himself. Thus, According to the respondents as the applicant never worked continuously during the period of one year, he was not entitled for any consideration and there was no legal requirement for considering his case for appointment as his name was not sponsored by the Employment Exchange. It may be that the name of the applicant was not sponsored by the Employment Exchange but the applicant was working as casual worker in the department itself, except on the days when there was no work or there was leave. The applicant continued to work during the period of one year as such his case was to be considered for appointment along with the other drivers whose names were forwarded by the Employment Exchange. It is true that the names must have been called from the Employment Exchange but it is not necessary that those who were already working in the department, their names obviously will not be sponsored by the Employment Exchange and their cases if ^{they} go by default will not be taken into consideration. Reference has been made to the case of 'Union of India Vs. Har Gopal' AIR 1987 S.C. 1227 laying stress on the statutory provisions of giving appointment to those whose names are not sponsored by the Employment Exchange. It was also stated that of course merely because his name has not been sent by the Employment Exchange, the case of the person who could have been otherwise considered, may not be considered. The applicant, who has worked for more than a year, obviously,

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his case should have been considered for appointment on regular basis. Accordingly, the respondents are directed to consider the case of the applicant for appointment to the post of driver notwithstanding the fact that his name has not been sponsored by the Employment Exchange. The application stands disposed of finally. No order as to costs.


MEMBER (A)

DATED: FEBRUARY 12, 1993.
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VICE CHAIRMAN.