

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH

(27)

(16)

Original Application No. 1061 of 1988

Jawahar Lal Gupta : : : : : Applicant

Versus

Union of India  
and Others : : : : : Respondents

Hon'ble Mr. Maharaj Din, Member 'J'  
Hon'ble Mr. S. Dayal, Member 'A'

( By Hon'ble Mr. Maharaj Din, Member 'J' )

The applicant has preferred this application under Section 19 of the Administrative Tribunals Act, 1985 seeking the relief of declaration that the order of termination dated 01.7.1988 passed by the Assistant Engineer, C.P.W.D. Opium Factory, Ghazipur is illegal.

2. The relevant facts giving rise to this application briefly stated are that the applicant was employed as Baildar with effect from 20.1.1986 and he continuously worked upto 30.6.1988. The services of the applicant were terminated without giving any notice or one month pay in lieu thereof. The applicant submitted representation dated 26.7.88 but to no effect hence he has approached this Tribunal seeking the relief mentioned as above.

3. The respondents filed counter-reply and resisted the claim of the applicant inter-alia

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on the ground that the applicant as per terms of his appointment was not entitled to continue in the service on ~~the~~ regular basis. His appointment as a Baildar was not made <sup>against</sup> in the sanctioned strength.

4. We have heard the learned counsel for the parties and perused the record.

5. It is not disputed that the applicant had worked as a Baildar for more than 240 days, rather the respondents in a certificate dated 22.7.1988 issued to the applicant have clearly admitted that the applicant had worked from 20.1.86 to 30.6.88 on Muster Roll without break, meaning thereby <sup>that</sup> he worked for more than 240 days continuously <sup>each year</sup> without break and as such had acquired temporary status. The provision of Section 25 F of Industrial Dispute Act, 1947 are also attracted while <sup>relieving</sup> ~~putting of~~ the applicant <sup>of his post</sup> ~~from the duty~~. The applicant has subsequently said in the application that he was neither <sup>given a</sup> giving one month notice nor the pay in lieu thereof thus, the compliance of Section 25 F has not been made. The respondents in their counter-reply though have denied their allegations but have not <sup>specifically</sup> ~~subsequently~~ said that the notice ~~have~~ required under Section 25 F or pay in lieu thereof was given to the applicant. So, the order of termination of services of the applicant was passed in violation of the provisions of Section 25 F of the Industrial Dispute Act, 1947.

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6. ~~The~~ Another aspect of the matter which needs consideration is the circular letter dated 26.10.1985 of the Government of India, Ministry of Home Affairs, Department of Personnel & Administrative Reforms (Annexure A.4) of the rejoinder-affidavit which shows that the services of the casual workers may be regularised in a Group 'D' posts provided he has put in two years as a casual worker with 240 days or more of services as such, during each year. It is evident from the certificate issued by the department (Annexure A-3) referred to above that the applicant had worked continuously without break for more than 240 days in each year, <sup>of his total service of</sup> ~~merely~~ <sup>nearly</sup> ~~2~~ <sup>2</sup>/<sub>2</sub> years. So, the circular letter also confers a right on the applicant for regularisation of his services.

7. It has been lastly argued by learned counsel for the applicant that the casual workers employed on Daily wage on Muster Roll subsequent to the applicant were retained in the service whereas his services has been terminated. The applicant in the amended original application has been given the name of Sri Budhi Ram Sharma who was junior to the applicant <sup>having</sup> ~~has~~ been retained in the service. The respondents have not denied this fact by filing any supplementary counter-reply.

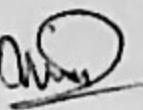
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8. So considering these facts and circumstances of the case, we are of the view that the application of the applicant deserves to be allowed and he is entitled for the reliefs prayed for. We accordingly allow the application and declare that the termination order dated 01.7.1988 passed by the Assistant Engineer, C.P.W.D. Opium Factory, Ghazipur is illegal. The respondents are directed to reinstate the applicant on Group 'D' post and regularise his services <sup>on par with his juniors</sup> as regards the payment of wages during the period after 01.7.1988, the department ~~is on~~ has the liberty to take <sup>a</sup> decision as per extant rules. There will be no order as to costs.

  
Member (A)

  
Member (J)

Allahabad, Dated 28th July, 1994

/M.M./