

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
A L L A H A B A D

O.A. ~~No.~~ 262 of 1989

DATE OF DECISION 13-10-1995

Roop Kishore PETITIONER(S)

Sri A. K. Srivastava ADVOCATE FOR
THE PETITIONER(S)

VERSUS

The O.O.I. & others RESPONDENTS

Sri A. Shalke ADVOCATE FOR THE
RESPONDENT(S)

C O R A M :-

The Hon'ble Mr. S. Das Gupta, Member (A)
The Hon'ble Mr. T. L. Verma, Member (J)

1. Whether Reporters of local papers may be allowed to see the judgement ?
2. To be referred to the Reporter or not ?
3. Whether their Lordships wish to see the fair copy of the Judgement ?
4. Whether to be circulated to all other Bench ?

(SIGNATURE)

VKF/-

A-2
1804
9

CENTRAL ADMINISTRATIVE TRIBUNAL, ALAHABAD BENCH,
ALLAHABAD

Dated : Allahabad this the 13th day of October 1995.

Original Application No. 262 of 1989

QUORUM :- Hon'ble Mr. S. Das Gupta, A.M.
Hon'ble Mr. T. L. Verma, J.M.

Roop Kishore S/o. Jagat Lala,
R/o. Mohalla Surkha, P.O. Izatnagar,
Bareilly. applicant.
(By Advocate Sri A. K. Srivastava)

Versus

1. Union of India through Development Commissioner,
(Handicrafts), West Block No.7, R.K.Puram, New Delhi.
2. Dy. Director, Field Administrative Cell, Office of the
Development Commissioner (Handicrafts), 64, Mall Road,
Cantt. Varanasi (U.P)
3. Assistant Director, Carpet Weaving Training cum-service
Centre, Collector, Buckganj, 23, Indira Nagar, Bareilly
4. Carpet Training Officer, Carpet Weaving Training
Centre, Mudia Ahmadnagar, P.O. Mundai Ahmadnagar,
Bareilly..... Respondents.

(By Advocate Sri Amit Sthaler).

O R D E R (by Hon. Mr. T. L. Verma, J. M.)

This application under Section 19 of the
Administrative Tribunals Act, 1985, for a direction that
the applicant is ^a regular Chowkidar from the date he
completed 240 days service as Casual Labour under
respondents and for issuing a direction to the

respondents to pay salary to the applicant according to the scale prescribed for the post of Chowkidar with arrears of pay and minimum wages from the date of his appointment to the date of his regularisation.

2. The applicant's case is that he was appointed as Chowkidar on 19th May, 1983 in the Carpet Weaving Centre, C.B.Ganj, District Bareilly. He worked there upto June, 1985. From there he was transferred to Ballia where he worked upto 22.8.1987. From there he was transferred to Ahmad Nagar, Bareilly where he worked from 23.8.1987 to 10.1.1989. He has not been given any work thereafter. Hence this application for the reliefs mentioned above.

3. The respondents have resisted the claim of the applicant on the ground that the applicant was engaged on daily wage basis from 19th May, 1983 to June, 1985 at Bareilly and thereafter at Ballia from July, 1985 to 22.8.1987, in the same capacity as Chowkidar on daily wage basis. Thereafter he worked as Casual Labour Chowkidar from 23.8.1987 to 10.1.1989 at Ahmad Nagar, Bareilly. His casual engagement came to an end w.e.f. 10.1.1989 on the regular incumbent's joining as Chowkidar at Ahmad Nagar, in the district of Bareilly.

4. The above being the admitted facts, the only question that falls for our consideration is whether the applicant is entitled to a declaration as prayed for.

5. We have heard the learned counsel for the parties and perused the record. From the averments made in the pleadings of the parties and other material on record, it transpires that the applicant was engaged as Chowkidar on daily wage basis for a total period of 1500 days in different spells at Bareilly, Ballia and Ahmad Nagar, Bareilly. The dis-engagement of the applicant was the result of regular incumbent joining on the post of Chowkidar at Bareilly. Similarly, his engagement as casual Labour at Ballia was occasioned because of a casual vacancy arising there. Similarly, his engagement as Chowkidar on daily wage at Ahmad Nagar also was a result of a casual vacancy arising there.

6. The applicant no doubt acquired a right for being regularised on Group 'D' Post by virtue of his having worked for more than 240 days during two ~~concerning~~^{consecutive} years during the period for 1985 to 1989 in terms of instructions issued by appropriate authority in that behalf. Besides, the applicant, there are many other casual labours who have worked on daily wage basis during the aforesaid periods and have acquired similar right. The applicant, therefore, is entitled to be regularised according to his turn.

7. It is apparent from the counter-affidavit that no post of Chowkidar is at present available. The respondents, as is evident from the averments made in para 6 and 9 of the counter-affidavit, had called the applicant and others for verification of testimonials to enable the committee constituted for regularisation of casual labours to consider their cases for regularisation. The applicant's case

for regularisation, it appears, was considered, but, he could not be regularised as his name figured fairly low in the merit-list. His name finds place at Sr. No. 79 of the List of Daily Wage Casual Labours. In view of the above, the prayer of the applicant that he be declared as regular Chowkidar from the date he completed 240 days service can not be allowed.

8. Coming to the relief for payment of salary, ~~or at~~ minimum wages, from the date of his appointment till the date of his regularisation ~~is concerned~~, it may be stated that the applicant has failed to give the prescribed rate of minimum wages. The respondents have, in very clear terms, averred in the counter-affidavit that the daily wage fixed by the competent authority has already been paid and nothing was due to the applicant. In view of the omission on the part of the applicant to mention the prescribed rate of daily wage, this prayer also can not be allowed.

9. In view of the facts and circumstances mentioned above, the relief claimed by the applicant cannot be allowed. He is, however, entitled to be regularised in his turn subject to availability of vacancy. With the aforesaid observation, this application is disposed of leaving the parties to bear their own costs.

J. Bhagat
Member (J)

W. P.
Member (A),