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CENTRAL ADMINISTRATIVE TRIBUNAL  
ALL AHABAD BENCH, ALL AHABAD

Original Application No: 1686 of 1992

O.P.Singh .... .... Applicant.

Versus

Union of India & Ors. .... .... Respondents.

Hon'ble Mr. S.Das Gupta, Member-A

Hon'ble Mr. T.L.Verma , Member-J

(By Hon'ble Mr. T.L.Verma, J.M.)

This application has been filed for issuing a direction to the respondents to reengage the applicant and regularise his services w.e.f. the date, his juniors have been regularised.

2. The facts of the case giving rise to the application briefly stated are that the applicant was appointed as Chowkidar in the office of the respondents on daily wages w.e.f. 9.3.1987. He is stated to have continued to work as such without any break till (stated in the application) ~~till~~ 12.10.1987 (which seems to be a mistake for 30.11.1987) for a period over 240 days. He was, however, arbitrarily not allowed to work w.e.f. 1.12.1987 and in his place one Ram Das Manjhiwas engaged on daily wages w.e.f. 1.12.1987. The further case of the applicant is that the said Ram Das Manjhi has ~~been~~ subsequently, been regularised and appointed as Chowkidar. Not only that one Jitendra Pandey who was appointed on daily wages is still continuing in service and has been working as Chowkidar. The applicant filed representation on several occasions for his re-engagement and regularisation. Since the representations filed by the

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applicant have not yielded any result, this case has been filed for the reliefs mentioned above.

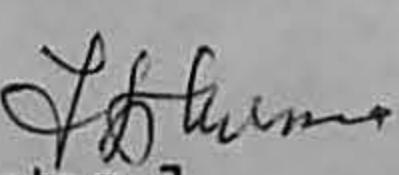
3. The respondents have resisted the claim of the applicant and have averred in the Counter Reply that the applicant himself stopped reporting for duty after 30.11.1987 and as such, he himself is to be blamed for discontinuance of his service, and that the case of the petitioner could not be considered for appointment on the posts subsequently also after November, 1987 because his name was not sponsored by Employment Exchange as and when requisitions were made for sending names for appointment on Class IV posts.

4. We have heard the rival contentions and perused the record. The respondents have admitted that the applicant worked on daily wages w.e.f. 9.3.1987 to 30.11.1987. The breaks in between appear to be artificial in view of the nature of the job of Chowkidar the applicant was discharging during the relevant period. It is clear from Annexure CA-1 that the applicant worked with the respondents up to 30.11.1987. Ram Das Manjhi has been appointed on daily wages w.e.f. 1.12.1987. vide Annexure-2. From the copy of Annexure-2 annexed to the petition, it is not clear on which date, the order appointing R.D.Manjhi was passed but in the circumstances of the case, it can safely be presumed that this order was passed either on 30.11.1987 or 1.12.1987. The appointment of R.D.Manjhi w.e.f. 1.12.1987 would have been necessary only if the applicant was absenting from before 30.11.1987. In the circumstances as mentioned

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above, the plea of the respondents that the applicant had himself stopped reporting for duty w.e.f. 1.12.1987 does not appear to be consistent with the sequence of events narrated above. On the facts admitted, it is clear that the applicant had put in more than 240 days service as Casual Chowkida<sup>r</sup> on the date Ram Das Manjhi was appointed, and had thus acquired an equitable right to continue in preference to new faces. It is well settled that employees serving for a reasonably long period and having requisite qualification for the job deserves to be regularised. The applicant, we have no manner of doubt, had acquired such a right by working for about 8 months, hence, induction of a new face in preference to him from all standards appears to be arbitrary and inequitable.

5. In view of the discussions made above, we are of the view that the applicant has made out a case for his reengagement and regularised w.e.f. the date, his juniors have been regularised. We, accordingly, allow this application and direct the respondents to consider re-engagement of the applicant against the first available vacancy and thereafter, regularise his services in accordance with law in the light of the observations made above. There will be no order as to costs.

  
Member-J  
Member-A

Allahabad Dated: 04<sup>th</sup>..... August, 1994

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