

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD BENCH
ALLAHABAD

O.A.No. 908/92

Ganesh Yadav.....

.....Applicants

Versus

Union of India and others. Respondents.

Hon'ble Mr. Justice U.C.Srivastava, V.C.
Hon'ble Mr. K. Obayya, A.M.

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

As the pleadings are complete, the case is being heard and disposed of finally.

2. The applicant's name was sponsored by the Employment Exchange and that is why he was given the work of welder on 7.7.81 on daily wages @ Rs. 12/- per day. According to the applicant he continued to work from 7.7.81 to 23.9.89 and was paid skilled rate for labour as prescribed from time to time and instead of regularising him on the post of labour the respondent has regularised him on the post of cleaner which order has been challenged and according to the respondent the applicant was not given his work of welder and the major break was between the period from 8.9.82 to 4.2.83 and the Employment Exchange was contacted to forward the name of the Welders and as the Employment Exchange failed to send the name and it was contacted again and the names were sent and out of the names one Sri Ram Prakash Pandey was selected. As the applicant's name was not sponsored that is why the name of the applicant was not considered and he having been found fit for the post of cleaner he has been regularised for the said post as the applicant has been working as welder xxxxxxxx on

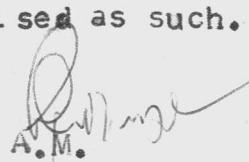
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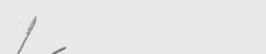
daily wage basis or on another basis during these 8 years without break and his name has been first sponsored by the Employment Exchange. It was not obligatory in his case that he could not have been treated for consideration on the ground that this time his name has not been sponsored by the Employment Exchange. Undoubtedly the Act as ~~requires~~ ^{under} sending of the name by the Employment Exchange is necessary but it does not mean that those who have come in the department may be on casual basis through Employment Exchange the names are to be sponsored again by the Employment for regular post. In this connection reference has been made to the case of Union of India and others Vs. N. Hargopal and others A.I.R. 1987 S.C. 1227 wherein, with reference to Employment Exchanges (Etc) Act 1959, it has been observed :

" The Act does not oblige any employer to employ these persons only who have been sponsored by Employment Exchanges. The object of the Act is not to restrict, but to enlarge the field of choice so that the employer may choose the best and the most efficient and to provide the opportunity to the worker to have his claim for appointment to consider that the worker about to knock at the very door for employment."

Therefore, it is an obligation of the employer to notify a vacancy that may occur in the establishment before filling these vacancies and thus the case of the applicant was wrongly deprived from consideration. The case would have been very well considered by the respondents and for some reasons best known to them

they have not considered the name of the applicant but has considered another candidate only on the ground that his name was second time/^{not} sponsored by the Employment Exchange and as the selection has already been made and the applicant has claimed regularisation ~~xxxx~~ the respondents are directed to consider the applicant for regularisation as a welder in the next available vacancy and in case he is fit for the same should be ~~be~~ regularised as a welder. The same is to be done with retrospective effect. We do not make any observation as we expect the respondents to do things in accordance with law and to take into consideration the date on which he was entitled to be regularised as such.


A.M.


V.C.

Dated: Allahabad
14th Oct., 1992

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