

CENTRAL ADMINISTRATIVE TRIBUNAL ALLAHABAD.

BENCH

Original Application no.
Transfer Application no.

949/1992

Date of Decision 4.6.97

Shri Birkha Bahadur Petitioner

1. Shri M. P. Tandon Advocate for the
2. Shri U. N. Khare Petitioner
3. Shri A. K. Srivastava

V E R S U S

Union of India and others Respondents.

Shri B. C. Tripathi Advocate for the
Respondents.

C O R A M

Hon'ble Mr. Dr. R. K. Saxena Jm.

Hon'ble Mr. D. S. Baw-eja

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 Lordship wish to see the fair copy of the judgement ? ✓
4. Whether to be circulated to all Bench ? ✓

Saxena
SIGNATURE

PIYUSH/

RESERVE

CENTRAL ADMINISTRATIVE TRIBUNAL? ADDL. BENCH.
ALIAHABAD

DATED THE 4th DAY OF ^{June} ~~MAY~~ 1997

CORAM : Hon'ble Dr. R.K.Saxena, J.M.
Hon'ble Mr. D.S.Baweja, A.M.

ORIGINAL APPLICATION NO.949 OF 1992

Birkha Bahadur, son of Sri Dhan Bahadur,
Ganga Ashram Mayakund, Rishikesh,
District Dehradun.

....Applicant-petitioner

Versus

1. Union of India through the Secretary,
B.R.D.B., B-Wing, 4th Floor, Sena Bhawan,
New Delhi.
2. The Director General, Border Roads,
H.Q. Kashmeeri House, New Delhi.
3. The Officer Commanding, 531, Engineer
Store and Supply Company (GREF) 56,
Army Post Office, Rishikesh,
District Dehradun.
4. Store Keeper I, Sri santosh Kumar Dev,
531, GREF 56, Army Post Office,
Rishikesh, District Dehradun.

.... Respondents

Counsel for the ^{ORDER}Applicant: Shri M.P.Tandon
Shri U.N.Khare
Shri A.K.Srivastava

Counsel for the Respondents: Shri S.C.Tripathi

Q

ORDER

BY HON'BLE MR. D.S.BAWEJA, A.M.-

Through this application, the applicant has prayed for issuing direction to the respondent, -

- (a) to regularise the services of the applicant, to treat him as a monthly rated employee in Group 'D' cadre and also to treat him on duty with effect from 9.2.1992 onwards;
- (b) to make payment of arrears on account of difference in pay of the regular scale as prayed for and the daily rated pay.

2. The applicant submits that he was ^{engaged} working as a daily rated civilian labourer with 531 Engineering Store and Supply Company since November 1971. He was assigned the duty as a chowkidar in the unit. The applicant has been working continuously since then but on 9.5.1992 the services of the applicant have been terminated. The applicant made an appeal against the same to respondent no.3 but did not get any reply. He also made a representation to the Secretary, Boarder Road Development Board, New Delhi but without any response. Being aggrieved, the present application has been filed on 13.7.1992. The applicant contends that the termination of the services, non-regularisation in Group 'D' and non-payment in the regular scale is arbitrary and discriminatory violating Article 14 and 16 of the Constitution of India.

3. The respondents have filed the counter-reply. The respondents at the out set have opposed the application as not maintainable before the Tribunal as the staff of General Reserve Engineering Force are members of the Armed Forces as held in the judgment dated 10.2.1986 in T.A.No.70/1985 and 724/1985 of the Principal Bench. As regards the merits, the respondents contended that for the construction of the roads, ~~the~~ casual labour is engaged

locally ^{and} as soon as the sanctioned work is completed, the casual labour is discharged. The terms and conditions of service of casual labour ^{are} ~~is~~ governed as per paras 501 and 518 of Boarder Road Regulations. The casual labourers are engaged for a minimum period of 180 days at a time and their services are discontinued depending upon the work-load and budgetary provision without assigning any reason or giving written notice. No service record of such staff is maintained beyond the period of six months and they are paid minimum wages ~~in~~ daily rates as prescribed. The applicant was last engaged on 25.3.1992 but his services were terminated from 11.5.1992 as his work was not found satisfactory on account of bad behaviour and inciting the other labourers. Since the applicant was employed on daily wages, he did not have any inherent right to be given any benefit of regular Government employment. In this connection, the respondents have also relied upon the judgment of Hon'ble High Court of Punjab and Haryana in L.P.A. 1010 of 1990 in Civil Misc. Writ Petition No.5130 of 1985. *The respondents contend that* In view of what is held in this judgment, the applicant cannot demand regular employment and be equated to a regular GREF employee with the same salary.

5. In consideration of these facts, the respondents pray that application is not only ^{not} maintainable before the Tribunal but is also devoid of merits and accordingly deserves to be dismissed.

56. The applicant has filed rejoinder reply controverting the submissions of the respondents and re-affirming the pleadings made in the application.

7. We have heard Shri U.N.Khare learned counsel for the applicant and Shri S.C.Tripathi learned counsel for

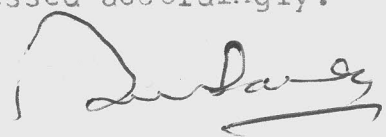
the respondents. We have also carefully gone through the material brought on record and also considered the arguments advanced during the hearing.

8. We will first take up the issue of maintainability of the application before the Tribunal raised by the respondents. It is an admitted fact that the applicant was engaged as a daily rated casual labourer with 531 Engineering Store and Supply Company working under the supervision of the Chief Engineer General Reserve Engineering Force, Border Roads Deepak Project. Thus the unit in which the applicant was engaged belonged to General Reserve Engineer Force (GREF). The respondents have asserted that the Administrative Tribunal has no jurisdiction over the staff of GREF in view of what is held by the Principal Bench in judgment dated 12.5.1986 delivered in cases T-70 of 1985 and T-724/1985 "Shri Kunja Krishna Pillai v. Union of India." The copy of this judgment has been brought on record as C.A.1 We have carefully gone through this Judgment. The issue of determination in these cases was whether the GREF is an Armed Force of the Union within the meaning of Section 2(a) ^{of} Administrative Tribunal Act 1985 and whether the Tribunal under Section 4(1) of the Administrative Tribunal Act 1985 has jurisdiction to deal with the grievances of such staff. The applicant in the case was appointed as a Surveyor Draftsman. There was a difference of opinion between the Members of the Division Bench and the matter was referred to the third Member. In the judgment of the third Member it ^{was} held that GREF personnel are members of the Armed Forces. ~~and~~ In view of [✓] this, Section 2(a) of Administrative Tribunal Act 1985, ^{mutually} ~~mutually~~ and therefore, matters connected with the grievances of the staff cannot be entertained by the Tribunal under Section 19. In the present case, the applicant was engaged as a casual labourer on a daily rated basis [✓] in the 531 Engineering

Store and Supply Company for the construction and repairs of Border roads and also to supply all types of materials to various branches for this purpose. The respondents in the counter affidavit have explained that for construction of roads, engagement of casual labourer is done locally to complete the sanctioned jobs and thereafter the casual labourers are being disengaged as per the terms and conditions laid down. Keeping in view these facts, it is quite obvious that the casual labourers are engaged in carrying out the job entrusted to GREF and, therefore, ^{they} ~~they~~ cannot be treated as distinct from regular personnel of GREF. The applicant in reply to the averments of respondents with regard to the maintainability of the application before the Tribunal as well as the judgments referred to has simply denied the contents in the rejoinder affidavit and has not made out any averments that he belongs to category of civilian employees under GREF. Keeping in view what is held in the judgment of the Principal Bench referred to above, we hold the view that the casual labourer engaged by GREF for carrying out its activities are to be treated an integral part of GREF. Therefore, the status as applicable to GREF personnel will apply to casual labourers also. In this view of the matters, we are inclined to accept the submission of the respondents that the application is not maintainable before the Tribunal.

9. In view of the findings recorded above, the application is not maintainable and the same is dismissed accordingly. No order as to costs.


MEMBER (A)


MEMBER (J)

Gcs