

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL, ADDITIONAL BENCH
ALLAHABAD

DATED: THIS THE 20 DAY OF FEBRUARY, 1997

CORAM : Hon'ble Mr. S. Das Gupta AM
Hon'ble Mr. T. L. Verma JM
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ORIGINAL APPLICATION NO. 1621/93

C/A Sri A. Tripathi.

Versus

1. Union of India through Director,
Akash Vani Kendra and Doordarshan
Jamnagar House, Shahjahan Road,
New Delhi.
2. Chief Engineer (N-Z) (Sri K.C.Talwar)
Director Engineering, All India Radio
and Doordarshan Project Wing,
Jamnagar House, Shahjahan Road,
New Delhi.
3. Installation Officer, All India Radio
Bareilly.

4. Surendra Prasad Uniyal,
Security Guard, Doordarshan Kendra
Bareilly- - - - - Respondents

C/R Sri N. B. Singh

ORDER

By Hon'ble Mr. S. Das Gupta AM

Through this application filed under section 19 of the Administrative Tribunals Act, 1985 applicant has prayed that he be retained at Bareilly as a Security Guard and the Station Engineer, Bareilly be directed not to spare him to join at Kotdwar in pursuance to the letter dated 4.10.1993 and if any letter has been issued for sparing the applicant, he may be brought back to Bareilly by a suitable direction to the respondents.

2. That applicant is an ex-service man. He retired from Army on 25.5.1990 and was thereafter appointed as Security Guard on 6.9.1990 by the office of the Chief Engineer (Northern Region) of All India Radio and Doordarshan. Two other persons viz. Sri Pratap Singh and Surendra Prasad were also appointed alongwith him as Security Guards. Services of all the three persons including the applicant were terminated with effect from 30.9.1993. by order dated 25.8.1993. Thereafter the applicant was directed to report for duty at Kotdwar Challenging this order the applicant has approached this Tribunal for the reliefs aforementioned.

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3. Applicant's case is that the Director Administration in the office of the Chief Engineer of All India Radio and Television by letter dated 16.9.1993 directed the Station Engineer of All India Radio, Bareilly for absorbing the applicant and Prahlad Singh at Bareilly and Surendra Singh at Kotdwar against the regular vacancies. However, in contravention of this direction, the Station Engineer directed the applicant to report at Kotdwar while Surendra Singh, who was the junior most among the three was retained at Bareilly. The applicant alleges that this was a malafide order as the respondents are biased against him as a result of an incident in which he had restrained the Junior Engineer (C) from taking out truck loaded with cement. The applicant has also stated that he was permitted to appear in a test held for appointment against permanent vacancy at Bareilly and he had qualified in the test.

4. The respondents appeared and contested the case by filing counter affidavit in which it has been brought out that the posting of the applicant at Kotdwar is only to provide employment to the applicant on his dis-engagement after being declared surplus. It has been brought out that the applicant was working in the Engineering department against workcharged post and when the project was completed, services of the applicant and 2 other Security Guards were no longer required. It has been further brought out that the office of the Chief Engineer only recommended for accomodating 2 out of all the

three workcharged Security Guard at Bareilly and remaining one at Kotdwar, but did not issue any direction for accomodating the applicant at Bareilly. Services of the applicant stood terminated w.e.f 30.9.1993 and thereafter he had no right to be posted at a particular station of his choice. The further submission of the respondents is that for filling certain vacant posts of Security Guards in All India Radio and Doordarshan, a selection committee was appointed and the applicant was allowed to appear before the committee on 24.9.1993. It has not been stated whether he succeeded in the selection or not.

5. The applicant has filed rejoinder affidavit reiterating the contentions made in the O.A. He also admitted that he had appeared in the selection against regular vacancy at All India Radio Bareilly, but he also did not indicate whether he was selected. However the respondents, through a supplementary counter affidavit has brought out that the applicant was considered for regular appointment but was not found fit.

6. It is clear from the copy of the order dated 28.8.1990 by which the applicant was appointed as Security Guard (annexure 1) that this appointment was against the vacancy in a Project. It was clearly specified in the order that the appointment shall be tenable for 3 months from the date of joining. Subsequently by order dated 31.10.1990 (annexure 2) services of the applicant was extended till 31.12.1990 or till the completion of the Project whichever was earlier. Thereafter by an order dated 26.2.1993

services of the applicant was further extended till 30.6.1993 or till the completion of the Project whichever was earlier. Finally by order dated 25.8.1993, the applicant and the other Security Guard were informed that their services were no longer required beyond 30.9.1993 consequent on the completion of the project. Clearly, therefore, the appointment of the applicant was not on a regular vacancy but on a workcharged vacancy which was made abundantly clear on the appointment order and subsequent orders extended from time to time indicating specifically that the services shall stand terminated on completion of the project. Applicant, therefore, can have no right what-so-ever for being appointed on a regular basis. Applicant's case is solely dependent on the so-called direction given by the office of the Chief Engineer to the Station Engineer at Bareilly to regularise the services of the applicant against regular vacancy at Bareilly. We have seen copy of the letter dated 16.9.1993 at annexure 7 to the O. A. In this letter it has been stated that since certain regular posts were being filled in the office of the Station Engineer of All India Radio Bareilly, he was being requested to consider the regular appointment of the applicant and another against such vacancies and the appointment of Surendra Prasad against a regular vacancy at Kotdwar. There is no direction as such in this letter to the Station Engineer to appoint the applicant against a regular vacancy available at All India Radio, Bareilly. The respondents have correctly taken the view that this letter was only in the nature of a request to consider the case of

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of the applicant for regular appointment at Bareilly and not in the nature of a direction. They have further brought out that Surendra Prasad was accommodated at Bareilly in view of certain personal problems which he represented relating to education of his children for which facilities were available at Bareilly, but not at Kotdwar.

7. We heard learned counsel for both the parties and perused the records carefully. At the time of hearing learned counsel for the applicant laid great emphasis on the so called direction having been issued by the office of the Chief Engineer. As we have already stated earlier, we are of the view that the letter dated 16.9.1993 which emanated from the office of the Chief Engineer is only a request to consider the regularisation of the applicant against a regular vacancy available in the office of All India Radio, Bareilly. Moreover we were shown by the learned counsel for the respondent a letter which was subsequently issued from the office of the Chief Engineer accepting the suggestion to the Station Engineer Bareilly that Surendra Prasad be accommodated at Bareilly instead of the applicant in view of certain personal problems of the former.

8. The applicant was clearly working against his workcharged post. It is not disputed that the project in which he was working had come to an end. Therefore, he was rendered surplus. In such a situation, the respondents could not have terminated the services and do nothing further

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thereafter. However, they have considered the fact that he had put in considerable period of service, even though on a workcharged post and ~~he~~ ~~has~~ offered further employment in a vacancy available at Kotdwar. While it is upto the applicant to accept such employment or not, we see no reason whatever to compel the respondents to appoint the applicant at Bareilly.

9. ^{the} In the result/application fails and is accordingly dismissed. Parties shall bear their own cost.

Thimmayya

Member (J)

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Member (A)

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