

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Allahabad this the 11th day of September 2000

Original Application no. 120 of 1993.

Hon'ble Mr. S.K.I. Naqvi, Member-J

Hon'ble Mr. M.P. Singh, Member-A

Vishnu Prasad, S/o Shri Ram Narain,  
R/o Village Nichlaul Post Office Nichlaul,  
Distt. Mahrajganj.

.. Applicant

C/A Shri M.D. Mishra

Versus

1. Union of India, through Secretary,  
Central Excise and Custom Department.
2. Assistant Collector Customs (P&V)  
Central Excise, Gorakhpur.
3. Deputy Collector (P&V) Central Excise,  
Allahabad.

.. Respondents.

C/Rs Shri R.C. Joshi

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O R D E R

Hon'ble Mr. S.K.I. Naqvi, Member-A

As per applicant's case he was appointed as Farrosh on 01.10.90 in the Central Excise Department and posted at Gorakhpur. He has <sup>5</sup>also mention-ed that after having put in 240 days of work with the respondents, his services <sup>S have</sup> ~~has~~ been dispensed with without following the procedure laid down under the Industrial Dispute Act. The applicant has also mentioned that his services <sup>have</sup> ~~has~~ been dispensed with, through an oral order and no order in writing was given. He has come before the Tribunal seeking the relief to the effect that the applicant be treated <sup>as</sup> continuous in service of the respondents and entitled to get all the emoluments as permissible under the Rules with consequential benefits and the oral order dated 15.10.92 be set aside. In support of his contention the applicant has come up mainly on the ground that order was passed without giving him opportunity of being heard and the procedure for retrenchment laid down in the Industrial Dispute Act <sup>has</sup> ~~have~~ not been followed and, therefore, the order passed is illegal and against the principle of natural justice.

2. Respondents ~~have~~ contested the case and filed C.A., in which it has been contended that there is no appointment letter appointing the applicant. The letter dated 16.7.91 is only an information about the engagement of the individual made <sup>therein</sup> ~~thereunder~~ on daily wages basis. Daily wagers are engaged upon availability of casual type of work on payment of per day wages.

See



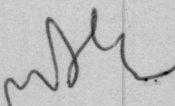
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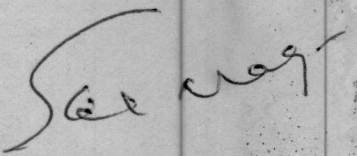
3. Heard learned counsel for the rival contesting parties and perused the record.

4. It is not in dispute that the applicant remained with the respondents only in the capacity of daily paid casual labour. Annexure 1 has been filed as appointment letter of the applicant, but perusal of the documents shows it is only information regarding engagement of four labours and applicant finds its name at Sl. no. 2. Since the applicant worked with the respondents <sup>in</sup> with the capacity of daily paid casual labour, therefore, there was no need to follow the procedure as it is in the case of retrained employees.

5. As per CA 1, the applicant worked for 447 days with the respondents in between October 1990 to April 1992 and the respondents may consider his case, if any entitlement comes to him under rule.

6. The OA is disposed of with the above observation.  
No order as to costs.

  
Member-A

  
Member-J

/pc/