

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH

THIS THE 28TH DAY OF JANUARY, 2002

Original Application No.1341 of 1994

CORAM:

HON.MR.JUSTICE R.R.K.TRIVEDI,V.C.

HON.MAJ.GEN.K.K.SRIVASTAVA, MEMBER(A)

Rai bahadur,a/a 30 years,
S/o Sri Chhiddu Singh,
R/o Nekpur, ganesh nagar
Bareilly.

... Applicant

(By Adv: shri Anupam shukla)

Versus

1. The Union of India
through its Secretary,
Department of Posts, Dak
Bhawan, New Delhi.
2. The Senior Supdt. of Posts
Bareilly region, bareilly.
3. The Sub-Divisional Inspector
Posts based at Bareilly.

.... Respondents

(By Adv: Ms.Sadhna Srivastava)

O R D E R(Oral)

JUSTICE R.R.K.TRIVEDI,V.C.

By this OA applicant has challenged the order dated 3.8.1994 by which his services as C.P.Chaukidar in the department of posts, were terminated under Rule 5(1) of CCCs(Temporary Service) rules 1965. Learned counsel for the applicant has submitted that applicant was engaged on 18.1.1988 as CPChaukidar and since then he is working on the post. By order dated 31.7.1992 the applicant was conferred the status to receive monthly allowance though as casual labourer working as chaukidar. By a subsequent order dated 29.7.1993 applicant was conferred temporary status w.e.f. 29.11.1989. It is submitted that against the work and conduct of the applicant there was no complaint. The temporary status was *given* ~~served~~ on the

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applicant in pursuance of the order dated 12.4.1991 which was issued under direction of Hon'ble Supreme court and a scheme was framed by the department to regularise the services of casual workers. It is submitted that applicant had already worked on the post for more than 6 years and when he was expecting regularisation under the circular dated 12.4.1991 his services were terminated all of a sudden without there being any cogent reason. It is also submitted that the work for the post of chaukidar is still there and the applicant may be continued in employment. It is also submitted that the applicant is still working on the post in view of the order passed by this Hon'ble court on 12.9.1994.

Ms. Sadhna Srivastava learned counsel for the respondents on the other hand submitted that the impugned order of termination has been passed as there was no post on which applicant could be regularised. It is also submitted that mere grant of temporary status does not confer the right to the applicant for regularisation. However, the learned counsel for the respondents could not point out that there was any complaint against the work and conduct of the applicant.

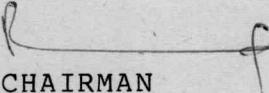
We have considered the submissions of the counsel for the parties and in our opinion, as the applicant was kept on the post as CP Chaukidar since 18.1.1988, it is difficult to believe that applicant could be continued on the post without work for such a long time. By a circular dated 12.4.1991 a scheme was introduced to regularise the casual workers in phases under the direction of Hon'ble Supreme court. Applicant after putting six years service could legitimately expect that he will be regularised by the department. The order of termination at this juncture cannot be approved and more so, when there was no complaint against his work and conduct. The circular dated 12.4.1991 though permitted termination of service of casual labourer but only after following the due

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procedure. The due procedure, in context with the circular dated 12.4.1991 and the direction of the Hon'ble Supreme court may be, to rule out any kind of arbitrariness and for this purpose, an opportunity ought to have been given to the applicant before terminating his employment. In case he was allowed opportunity of hearing he could point out that he is entitled to be retained in preference ~~than~~ others. He could also point out that posts are available if not in that particular office in other office, but after putting ~~him in~~ ^{in a} ~~of service, he~~ so many years could not be shunted off, in this manner. In our opinion, the applicant is entitled for the benefit.

The OA is accordingly allowed. The impugned order dated 3.8.1994 is quashed. No order as to costs.


MEMBER(A)


VICE CHAIRMAN

Dated: 28th jan: 2002

Uv/