

Open Court.

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 08th Day of November, 2000

Coram: Hon'ble Mr. Justice R.R.K. Trivedi, V.C.

Hon'ble Mr. S. Dayal, A.M.

Original Application No. 388 of 1994.

Durga Prasad aged about 27 years,
son of late Shri Kedar Nath Srivastava,
R/O House No. 66,
Ahmedganj,
Allahabad,
at present residing at House No. 43/59,
Bhusauli Tola,
Purshottam Nagar,
Khuldabad,
Allahabad.

. . . Applicant.

Counsel for the Applicant : Sri M.S. Mishra, Adv.

Versus

1. Union of India through its Director and
Joint Secretary, Ganga Project Directorate,
Ministry of Environment and Forests,
Government of India, Paryavaran Bhawan,
C.G.O. Complex, Lodhi Road, New Delhi.
2. Regional Director (U.P.), Ganga Project
Directorate, Ministry of Environment and Forests,
Government of India, 2nd Floor, Chandra
Shekhar Azad Market, Civil Lines, Allahabad.

. . . Respondents.

Counsel for the Respondents: Sri R.C. Joshi, Adv.

Order (Open Court)

(By Hon'ble Mr. S. Dayal, Member (A.))

This application has been filed for

re-instatement of the applicant with consequential

benefits and direction to the respondents to treat him on temporary status of holding permanent post of peon. A prayer has also been made for setting aside oral termination order.

2. The case of the applicant is that he worked from 15.9.87 till 31.7.93 intermittently in the office of the respondents. He has not been regularised although he worked on the post of Peon in the ~~office~~ ^{office} and a permanent vacancy exists in the office of the respondents. Not only this he was terminated by an oral order on 31.7.93. He claims that after his termination two substitutes in his place namely Sri Jai Singh and Vimlesh Kumar were appointed. He claims the benefit of the office of Memorandum No. 490/412/86-Estt.(C) dated 7.6.88 and office memorandum No. 51016/2/90-Estt.(C) dated 10.9.93. He claims that he had made representation to the respondents on 13.1.94 but the same has not been disposed of by the respondents.

3. The arguments of Sri M.S. Mishra for the applicant and Sri G.R. Gupta holding brief of Sri R.C. Joshi for the respondents have been heard. The pleadings on record have been considered.

4. The learned counsel for the applicant has contended that the applicant worked continuously for seven years and was entitled to be treated as a temporary employee and thereafter regularised. He has also drawn our attention to the provisions of Government of India, Ministry

of Personnel Memorandum dated 7.6.88 in which it is laid down that where nature of work entrusted to the casual worker and regular employees is the same, the casual worker should be paid at the rate of 1/30th of the pay. It is also provided in that O.M. that where it was not possible to entrust all the items of work which have been handled by casual workers to the existing regular staff, the additional regular post may be created.

5. The learned counsel for the respondents has contested the claim of the applicant that he worked continuously for seven years. He has mentioned that the applicant himself claim in his application that he had worked intermittently and that the work of the applicant was of casual nature rendered by him from time to time as and when it was necessary.


6. The respondents have admitted that the applicant worked as Daily Wager from 15.9.87 to 15.2.88 from 17.2.88 to 19.7.88 and that he was engaged in the office in the year 1989, 1990, 1991 and 1992 as also in the year 1993 from 1.1.93 to 2.7.93 but they have denied that the applicant worked either as permanent or as adhoc peon. They have also mentioned that no permanent post of peon was available for engagement of the applicant. It is stated that the applicant was retained on daily wages till Class IV employee was posted.

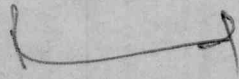
7. We have considered the contentions of the learned counsel for the applicant as well as of the respondents. We find that the applicant

has made a representation dated 13.1.94 giving certain details and stating that his services were orally terminated on 31.7.93 as there are several issues of fact involved which require to be considered by the respondents including the nature of work assigned to the applicant during his period of retention and the manner of termination of service which have been raised in the representation of the applicant dated 13.1.94. We consider it appropriate to direct the respondents to dispose of his representation dated 13.1.94 by a reasoned order within a stipulated time.

8. The respondents are, therefore, directed to dispose of representation dated 13.1.94 by a reasoned order within a period of three months from the date of receipt of a copy of this order along with a copy of representation *after hearing the applicant.*

9. There shall be no order as to costs.


Member (A.)


Vice Chairman

Nafees.