

CENTRAL ADMINISTRATIVE TRIBUNAL, ALLAHABAD BENCH
A L L A H A B A D

Allahabad this the 31th day of Jan. 1996

ORIGINAL APPLICATION NO.1081 of 1995

Hon'ble Mr. S.Das Gupta A.M.

Hon'ble Mr. T.L.Verma J.M.

Ajay Kumar son of Sri Gopal Ram

resident of Mohalla Parthan,

Tahsil and Post Office Fatehabad,

District Agra 28 311

- - - - - Applicant

C/A Shri Saumitra Singh

VERsUs

1. Union of India through secretary
Ministry of Industries, New Delhi.
 2. Dy. Chief Controller of Explosives,
department of explosives, Northern Circle
18/194 Purani Mandi, Tazgunj
Agra.
 3. Chief Controller of Explosives,
department of explosives, Purana
Uchchya Nyayalay Bhawan,
Dr. Raghuvendra Rai Marg, Civil line
Nagpur -- 44 001
- - - - - Respondents
- C/R Shri N.B.Singh



O R D E R (Oral)

By Hon'ble Mr S.Das Gupta, Member-A

1. This application was filed under section 19 of the Administrative Tribunal Act, 1985 seeking a direction quashing the order dated 27.1.95, passed by the respondent no.2 by which the services of the applicant on casual basis stood terminated. The applicant has also prayed for a direction to the respondents not to hold any fresh selection for the post of Generator Operator scheduled to be held on 10.10.1995 or thereafter in pursuance of the notification dated 15.10.1995 (Annexure A-15). The applicant has also sought a direction to regularise his services on any class IV post under the respondents in compliance with the order dated 9.9.1993, passed by the respondents no. 3.

2. The applicant's case is that he was engaged on casual basis to work as Generator Operator after he was sponsored by the Employment Exchange and after his selection by the competent authority by order dated 2.2.1993. Since then he has been rendering service on casual basis, his services being extended from time to time and in that manner he continued to work un-interruptedly until he was disengaged by the impugned order dated 27.1.1995 with effect from 3.2.1995.

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3. The applicant has alleged that subsequently the respondents issued a notification by which applications were invited for fresh casual engagement as Generator Operator. This led the applicant to file the present application for the relief aforesaid.

4. The respondents have filed counter affidavit in which it has been stated that at present there is no sanctioned post of Generator Operator in the department of the respondents. The applicant was appointed as a casual labour to operate the Generator on daily wages. It has been stressed that the question of regularisation of the applicant does not arise as there is no sanctioned post of Generator Operator. It has also been pointed out that the so called order dated 9.9.1993 is only a recommendation and does not confer any right on the applicant for regularisation on any group D post. The learned counsel further stated that they are not going to make any appointment on the basis of the impugned requisition dated 5.10.1995.

5. The applicant has filed Rejoinder Affidavit, reiterating the contentions made in the original application. It has been further contended that as there is continued requirement of Generator Operator, there is no justification for the respondents to terminate the service of the applicant when his service were found to be fully satisfactory. It is further stated that in

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absence of any regular post of Generator Operator, he should be considered for regular appointment on any group D post.

6. We heard the learned counsels for both the parties and have carefully perused the records.

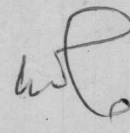
7. It is very clear from the averments that there is no sanctioned post of Generator Operator in the department of respondents. However, they have a generator, which requires to be attended to and therefore with the approval of the competent authority, the respondents, engaged the applicant on daily wages for the purpose. Admittedly the applicant had worked for more than 3 years and it would appear from the certificate annexed to the O. A. that he was functioning satisfactorily. However, in the absence of a regular post of Generator Operator, the applicant can not claim regularization on this post. It is for the department to decide whether a regular post should be sanctioned and in case such post is eventually sanctioned, it would be incumbent on them to consider regularization of the applicant in accordance with law. So far as regularization on any other group D post is concerned, we agree with the respondents that so called order dated 9.9.1993 is merely in the nature of recommendation and does not confer any right on the applicant. The applicant has not shown us any rule under which he derives

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a right to be appointed on regular basis against any other group D post.

8. We are, however, of the view that in case the department has a continued requirement of a casual labour to attend to the generator and they engage casual labour for this purpose in future, the applicant, who has already rendered unblemished service for more than 3 years, should be considered for such casual employment in preference to fresh faces provided the applicant fulfils the qualification prescribed for such appointment. With this observation, the application is disposed of. Parties to bear their own costs.


J.M.


A.M.

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