

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Original Application No. 1620 of 1999

Allahabad this the 31st day of Jan. 2002

Hon'ble Mr.C.S. Chadha, Member (A)

Agar Singh, aged about 33 years, Son of Shri Gyan Singh, resident of Village Hassari, District Jhansi.

By Advocate Shri R.K. Nigam Applicant

Versus

1. Union of India through Secretary, Ministry of Defence, Defence Headquarters, New Delhi.
2. Officer Commanding, 38 Coy ASC (Sup) Type 'A' Cantt. Jhansi.
3. Director General (Supply and Transport) Defence Headquarters, New Delhi.

By Advocate Shri S. Chaturvedi Respondents

O_R_D_E_R

Hon'ble Mr.C.S. Chadha, Member (A)

The case of the applicant is that he has worked in the ~~Defence Dept.~~ ^{Defence Dept. under Resp. No. 2} as a casual labour with broken periods between 1992 and 1998 totaling 320 days and, therefore, he has claimed that he should be reinstated and given the status of a Class IV Group 'D' category as other juniors to him have been given. He claims that he was removed without giving any show-cause notice or any termination order.

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2. Counsel for the applicant draws strength~~ing~~ from the ruling of the Hon'ble Supreme Court in the case of Raj Kamal and Others Vs. Union of India and Others(1990) 13 A.T.C.478, wherein it was held that when a casual labour~~er~~ is removed for want of ^avacancy it is not only that department which should consider his future appointment, but also any other department as in the Government should consider his appointment~~/and~~ when a vacancy arises for a casual labourer *in such a* department. *len*

3. In their counter-affidavit, the respondents have claimed that the applicant never worked on a regular basis and was never issued any appointment letter. He used to work as and when required at his own will and availability. It is also claimed that he was never removed from service and that he *stopped* *len* working on his own. As regards the appointment of his juniors in the casual labour list to regular posts, the respondents have claimed that three persons ^{all} mentioned by the applicant, were appointed in special circumstances. For example Shri Govind S/o Nathur, who was engaged in 1992 was appointed on a permanent basis as an Industrial Labour in 1996 through Employment Exchange and further under the quota of S.C., in which the applicant does not fall. Shri Ashok S/o Shri Chottey Lal was working in the department and was regularised because his father-an Industrial Labour, expired on 14.03.1997 while in service and as per the

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policy of the Government, he was appointed on compassionate grounds. Similarly Shri Vinod S/o Shri Govind Das was also appointed as his father - a Carpenter, expired while in service on 31.1.1998. It is, therefore, contended on behalf of the respondents that there has been no discrimination against the applicant in as far as appointment of these 3 abovenamed persons is concerned.

4. The respondents have further claimed that out of the authorised strength of 35 Group 'D' posts available with them, there are four vacancies. However, they have stated that three have been kept apart under an order of the Army Headquarter's letter no.69558/Rul/Q/ST-12 dated 08.06.89, for appointment on compassionate grounds for the dependents of those who died in harness, and the 4-th vacancy is reserved for a handicapped person, a category to which the applicant does not belong.

5. Although the vacancy for the handicapped person cannot be given to the applicant, it is to be considered whether he can be adjusted in one of the three vacancies kept apart for the dependents of those who died in harness. There is nothing in the affidavit of the respondents to show that there is a quota set apart for such appointments. However, it would not be in the interest of justice to issue a direction to the respondents to appoint the applicant in one of three vacancies. ~~It would be~~ It would be


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proper if the representation of the applicant is considered by the department for one of those three vacancies if no such quota exists for compassionate appointments.

6. The O.A. is, therefore, disposed of with the direction to the respondents that out of 35 authorised posts of Group 'D' with them, if there is no earmarked quota for compassionate appointments, which has to be kept apart for 3 future appointments, then the appointment of the applicant should be considered on one of those vacancies. However, if such, vacancy is not available, then his name should be kept in the proper seniority list for appointment in future not only in the ^{Defence Dept.} ~~railways~~, but should also be forwarded to the other departments so that he can be absorbed as and when a vacancy arises in other departments.

7. There shall be no order as to costs.


Member (A)

/M.M./