

CENTRAL ADMINISTRATIVE TRIBUNAL  
ALLAHABAD BENCH  
ALLAHABAD

Allahabad this the 10th day of August 2001.

Original Application no. 1470 of 1999

Hon'ble Mr. SKI Naqvi, Judicial Member

Puttilal Maurya,  
S/o Sri DD Maurya,  
B/o Munna Ka Purva,  
Garhi Manikpur,  
PRATAPGARH.

..... Applicant

C/A Sri MK Sharma

Versus

1. Union of India through the Defence Secretary,  
Govt. of India, Ministry of Defence,  
South Block,  
NEW DELHI.
2. Officer Commanding Troops,  
Headquarters,  
Allahabad Sub Area,  
ALLAHABAD.
3. Camp Commandant,  
Headquarter,  
Allahabad Sub Area,  
ALLAHABAD.

... Respondents

C/Rs. Sri Monaj Kumar

.....2/-



2.

O R D E R

Hon'ble Mr. SKI Naqvi, JM.

Sri PL Maurya, the applicant, has come up seeking relief to the effect that the respondents be directed to continue the applicant's service of gardener/Messenger and regularise him in a substantive vacancy caused by the retirement of Sri Chandra Bhan in August, 1999.

2. As per applicant's case, he was engaged on 5.11.94 as gardener and later on he was given the post of temporary messenger w.e.f. January 1998 on consolidated salary of Rs. 950/- per month and in October 1999, his salary was enhanced from <sup>Rs.</sup>950 to <sup>Rs.</sup>1200 per month. It was in August 1999 that he was verbally terminated and, therefore, he has come up seeking above relief.

3. The respondents have contested the case, filed counter affidavit and pleaded that the OA is not maintainable because the applicant had never been in the employment of respondents establishment. He was simply engaged as Mali, and Messenger work was also taken <sup>from</sup> by him, <sup>he</sup> and was paid out <sup>of</sup> from regimental fund which does not accord the status of civilian employee <sup>and</sup> <sup>his claim is</sup> &, therefore, not cognizable by this Tribunal.

4. Heard Sri MK Sharma learned counsel for the applicant and Sri Monaj Kumar for the respondents and perused the records.

*SKN*

...3/-



3.

5. The main question involved in the matter is as to whether the applicant served in the capacity of civilian employee or was engaged as casual labour to work as gardener and messenger. In support of his contention the applicant has filed a certificate from Col. Sumant Mehta, Officer Commanding Troops, Headquarter, Allahabad Sub Area, Allahabad, who certified that Sri Putti Lal, the applicant, was working in Headquarter Allahabad Sub Area as Mali since 5.11.1994. The other certificates (Annexure 3) has been issued by Maj. Sushil Giri of Allahabad Sub Area dated 9.3.1999 certifying that the applicant was working with this Headquarter (Allahabad Sub Area) from January 1998 as Temporary Messenger on a consolidated salary @ Rs. 950/- permonth. Annexure A-4 is also a certificate of almost to the similar effect <sup>for</sup> fact issued by Col Sumant Mehta, certifying that the applicant was working on temporary basis on consolidated salary of Rs. 1200/- permonth. The applicant has also filed photo copy of Identity Card issued by officer in the Sub Area.

6. The respondents have clear pleading to the effect that the certificates issued are not in their official capacity, but only to acknowledge that the applicant was working there. It has also been clarified that he was paid only out of regimental fund and was never given status of a regular employee in Allahabad Sub Area.

*Seen*

....4/-

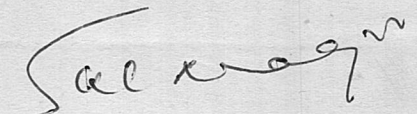


4.

7. Learned counsel for the respondents referred the law laid down by the Hon'ble Apex Court in Union of India & Ors Vs. Chotey Lal & Ors published in JT 1998 (8) SC pg 497. There almost a similar controversy was under consideration regarding Dhobis who worked <sup>for more</sup> ~~merely~~ <sup>than</sup> 30 years in defence establishment and claimed for regular service benefit. But the Hon'ble Apex Court declined to acknowledge them as civilian employee mainly because they were paid out of regimental fund. That matter before Hon'ble Apex Court <sup>was</sup> in an appeal ~~ag~~ against order by a Bench of Central Administrative Tribunal, who took cognizance of the matter, but the Hon'ble Apex Court held that since Dhobis, the applicants in the OA before Central Administrative Tribunal ~~were not~~ holding civil posts, the Tribunal could not take cognizance of it.

8. For the above position I find that, since the applicant was not holding any civilian post in the respondents establishment, therefore, he cannot get his grievance redressed by this Tribunal. The OA is not maintainable and dismissed accordingly.

9. There shall be no order as to costs.

  
Member-J

/pc/