

Reserved

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD**

Original Application No. 1437 of 2000

_____ day, this the 31 day of May 2007

Hon'ble Mr. K.S. Menon, Member (A)

Vijay Kumar Pandey, S/o Sri B.N. Pandey, R/o Village Arai
(Shuklan) Karchana, District-Allahabad.

Applicant

By Advocate Sri B.N. Tripathi

Versus

1. Union of India through Secretary, Ministry of Human Resources Development Government of India, New Delhi.
2. Deputy Director, Navodaya Vidyalaya Samiti, 10-B, Sector-C, Aliganj, Lucknow.
3. Principal, Jawahar Navodaya Vidyalaya Mejakhas Allahabad, District Allahabad.

Respondents

By Advocate Sri Vinod Swarup

ORDER

K.S. Menon, Member (A)

The applicant has filed this O.A. seeking this Tribunal to direct the respondents to reinstate and regularise him in the post of Chaukidar (Group D) in the Vidyalaya and pay the salary and other emoluments from 08.10.2000, the day his services were terminated.

2. The facts of the case in brief are that the applicant was appointed on 08.09.1994 to the post of Group-D (Chaukidar) in Jawahar Navodaya Vidyalaya, Allahabad on part time basis for a period not exceeding 179 days or till the regular incumbent joins, which ever is earlier. The terms and conditions of appointment inter-alia also stipulated that his service will be



purely on part-time basis and he can be terminated without notice besides he will have no claim for his regularization on the post now offered to him. The applicant accepted these terms and conditions and joined on 08.09.1994. The applicant was allotted multifarious duties while he was in service and his services were found to be good which is evident from the experience certificates, given to him by the respondents on 05.10.1995 and 15.01.1997 and as per the respondents own written submission at paragraph 10 of the counter.


3. It is stated that respondent 3 on hearing that a post of Chowkidar was going to be filled, wrote to respondent 2 to include part time worker alongwith candidates sponsored by the Employment Exchange in the interview list. Respondent 3 wrote to the Employment Exchange requisitioning names of candidates for the post of Chowkidar and Sweeper cum Chowkidar with experience of working in residential institutions. The notice put up in the Office however indicated that recruitment to one post of Chowkidar/Peon was for a reserved category candidate. Applicant represented to the respondents indicating that since there was only one vacancy, it cannot be reserved for SC as this would amount to 100% reservation, which is illegal and also filed a Writ Petition No.15258/99 before the Allahabad High Court. The High Court vide order dated 12.04.1999 held that if there was only one vacancy, the proposed appointment under reserved category amounts to 100% reservation and hence cannot be made. The High Court, however, dismissed the Writ Petition as being premature and directed the applicant to take up the matter with the appropriate authority, who will consider the case when approached. In pursuance of the High Court direction, the applicant represented to the respondents on 17.04.1999. No action was taken by the respondents on this representation but on 06.07.1999, they issued another notice for recruitment to the post of Chowkidar under General category. The applicant once again applied in response to the notice dated 06.07.1999. It is stated that the respondents did not consider his case as he was overage and terminated his services on



08.10.2000 by an oral order telling him not to come to the Vidyalaya and not to work on the post or sign the attendance register. The applicant being aggrieved submitted representations on 13.11.2000 and 05.12.2000. The applicant contends that given the length of service of approximately six years put in by him termination of his service without serving him any order, is illegal and arbitrary.

3. The learned counsel for the respondents argues that the terms and conditions on which the applicant was appointed are very clear. He was appointed as a daily wager to do the work of a group 'D' employee. Appointment was not regular and it was for a period of 179 days or till regular incumbent joins whichever is earlier. The offer was on part time basis and he will have no claim for his regularization. The applicant, therefore, has no claim whatsoever to be considered for regularization. The learned counsel further contends that his services were terminated not because of over age but because of the objection of Internal Audit team. The audit objection was that against a vacancy of two Group 'D' post, 5 casual wagers were working hence pay was being disbursed to three extra casual labourers, and recommended discontinuance of these extra casual labourers immediately.

4. The respondents accordingly discontinued the services of the applicant on 08.10.2000. Countering the point made by the applicant regarding the respondents move to recruit a Chowkidar in the reserved category and subsequently changing it to General category based on the High Court's direction, the respondents say no attempts were made to recruit any Chowkidar as borne out by the records available with the Vidyalaya. Based on the High Court's direction, the representation of the applicant was considered and rejected. In view of the above, the applicant is not entitled to any regularization and other reliefs as prayed for.



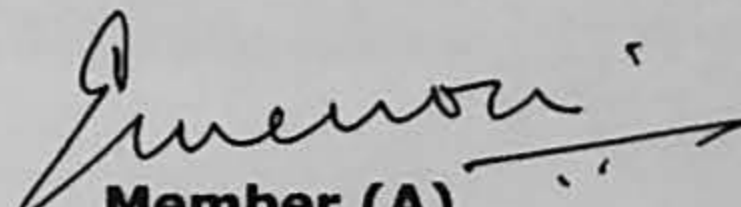
5. Heard, the counsels for both parties and examined the records. It is abundantly clear that as per the terms and conditions, under which the applicant was appointed, he is a casual worker on part time basis and he was entrusted all kinds of work during his service including that of the Chowkidar. The respondents are well within their right to terminate the services of the applicant without a show cause notice, hence this argument of the applicant cannot be accepted. The applicant's contention that his services were terminated because he was over age does not satisfy the Court as it has been made clear that his services were terminated because of the objections of Internal Audit as is evident from the annexure placed with the counter affidavit. The applicant's contention on this account also has to be rejected.

6. The learned counsel for the respondents has placed before the Court a copy of the settled law on the subject (2006) 4 SCC Secretary, State of Karnataka and others Vs. Uma Devi (3) and others, an extract of which is shown below: -

"Held, such employees do not have any right to regular or permanent public employment - Further, temporary, contractual, casual, ad hoc or daily-wage public employment must be deemed to be accepted by the employee concerned fully knowing the nature of it and the consequences flowing from it."

". it would not be appropriate to jettison the constitutional scheme of appointment, perpetuate illegalities and to take the view that a person who has temporarily or casually got employed should be directed to be continued permanently. By doing so it will be creating another mode of public appointment which is not permissible."

7. In view of the above, the O.A. being devoid of merits is dismissed. No order as to costs.


Member (A)

/M.M./