

RESERVED

**CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH ALLAHABAD.**

Original Application No.693 of 2000.

ALLAHABAD THIS THE 15 DAY OF AUG. 2005.

Hon'ble Mr. K. B.S. Rajan, Member-J.

Ram Sumer
Son of Shri Kallu Ram Maurya,
Resident of Village Gagaur, Post Mohammadpur Shav, Tehsil
Kunda District Pratapgarh.

.....Applicant.

(By Advocate : Sri N. K. Singh)

Versus.

1. Commissioner for Linguistic Minorities in India, 40 Amar Nath Jha Marg, Allahabad.
2. Union of India through Secretary, Ministry of Social Justice and Empowerment, Government of India, New Delhi.

.....Respondents.

(By Advocate : Sri A. Mohiley)

O R D E R

The following are the relief(s) sought by the applicant in this
O.A:-

(i) The Hon'ble Tribunal be pleased to issue a writ of mandamus or any other writ order or direction in the nature of mandamus directing the respondents not to interfere with the services of the applicant as class IV employee in the office of the Commissioner for Linguistic Minorities in India, Allahabad and not interfere with the employment as such and further to continue him to pay salary and allowances as admissible under rules.

(ii) To issue a writ of mandamus or any other writ or direction in the nature of mandamus directing the respondents to regularize the applicant on the post of Class-4 employee in the office of the Commissioner for Linguistic Minorities in India.

(iii)

[Signature]

2. Breif Facts:-

(a) The applicant in his OA had stated that he engaged as class IV in the respondent's organization from 1996 to 1999 and he regularly worked as such.

(b) He was stated to have been verbally disengaged on 30th November, 1999; but he continued to work and when he was not paid his salary for the work performed in December, 1999, he made a representation on 3rd January, 2000 but the same was rejected on the ground that he did not work beyond November, 1999.

(c) It was under the above circumstances that the applicant had filed the O.A. In support of the claim the applicant had filed a certificate dated 15-5-1999 issued by the then Commissioner for Linguistic Minority.

(d) The respondents have contested the OA. According to them, the applicant was engaged as a casual labourer and on need based basis. He did work in that capacity intermittently during the period 1996-99 but had never been employed as Class IV. As regards the certificate, the respondents contended that the same was not true.

(e) Rejoinder, supplementary counter affidavit have all been filed, reiterating the respective stand.

3. To ascertain as to the genuineness of the certificate purportedly issued by the Head of the Respondent No. 1, original of the same was called for and it has been ascertained that the certificate was genuine. However, the counsel for the respondent submitted that the same would have been issued by the Commissioner in his personal capacity.

4. Arguments were heard and the documents perused. Admittedly, the applicant was engaged only as a casual labourer and nothing more. This was for three years. The respondents contend that there are no vacancies either in regular Group D post

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nor are they engaging any casual labourer and hence, the applicant cannot be inducted again in to service. The counsel for the respondents has relied upon the following judgments:-

- (a) A Umarani vs Registrar of Cooperative Societies (2004) 7 SCC 112.
- (b) 1992 SCC (L & S) 1079

5. The only right accrued to the applicant by virtue of his having worked as a casual labourer for about three years during 1996 – 99 is that in case the respondent No. 1 employs in future any casual labourer, the applicant should also be considered in preference to others. Beyond this right, no other right has been crystallized by the applicant.

6. Hence, this OA is disposed of with a direction to the respondent to register the name of the applicant for any engagement in future of a casual labourer and in the event of engaging any such casual labourer, the applicant be considered in preference to others. Similarly, in case there be any recruitment to any Group D post and the applicant is qualified for the same, due weightage be given to his experience as a casual labourer. If any age limitation be there for the above, relaxation to the extent of three years be also given as the applicant had been engaged for a period of three years though intermittently. The applicant is at his liberty to approach at regular intervals, the organization for ascertaining the position relating to the engagement of casual labourer or appointment to Group D post.

7. Under the above circumstances, there would be no order as to cost.



MEMBER-J

GIRISH/-