

Open Court

Central Administrative Tribunal,
Allahabad Bench, Allahabad.

Dated: Allahabad, This The 11th Day of July, 2000.

Coram: Hon'ble Mr. Justice R.R.K. Trivedi, V.C.
Hon'ble Mr. S. Dayal, A.M.

Original Application No. 108 of 2000

Anupam Srivastava
son of Sri S.C. Srivastava,
Resident of House No. 1066-B,
Baba Ji Ka Bagh, Balua Ghat Road,
Allahabad.

. . . Applicant.

Applicant by Sri Y. Agarwal, Adv.

Versus

1. Union of India through its Secretary,
Ministry of Industries, New Delhi.
2. Director, Small Industries Service Institute,
Department of SSI, Agro & Rural Industries,
Ministry of Industry, Govt. of India,
E-17/18, Industrial Estate, Naini,
Allahabad- 211009.

. . . Opp. Parties.

By Kumari Sadhna Srivastava, Adv.

Order (Open Court)

(By Hon'ble Mr. Justice R.R.K. Trivedi, V.C.)

We have heard Sri Y. Agarwal for the
applicant and Kumari Sadhna Srivastava for the
Opposite parties.

2. This application has been filed challenging
order dated 12.1.2000 (Annexure-1) to the application



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by which services of petitioner Anupam Srivastava as Driver in Small Industries, Industrial Estate, Naini, Allahabad, has been terminated under Central Civil Service (Temporary Service) Rules 1965.

3. The facts in brief giving rise to this application are that the applicant was initially appointed on daily wages under order dated 12.6.97. It was clearly provided in the aforesaid order that until regularly selected candidate ^{join} ~~is~~ he shall continue on the post. The post was ultimately advertised on 4.12.98. Copy of the advertisement has been filed as Annexure-3 to the application. From perusal of this advertisement, it appears that the applications were invited for regular appointment. There is no indication that ~~any~~ appointment made, shall be for a temporary period. In response to the advertisement, applicant also applied. He was selected for appointment and a fresh appointment order was issued on 13.7.99 on the basis of selection, made by the Selection Committee. However, in this order it was provided that appointment shall be temporary and for a period of six months. By the impugned order dated 12.1.2000 services of the applicant have been terminated. Hence this application.

4. In counter affidavit filed by the respondents it has been stated that the appointment was made for a period of six months as there was a freeze on regular appointment as a measure of contingency to meet requirement ^{for election} ~~beyond application~~ process. It has also been averred that in

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the interview letter it was made clear that the appointment shall be for a period of six months. A copy of the interview letter has been filed as Annexure A-1. Para 8 of the counter affidavit is very relevant for the controversy before us which is being reproduced below:

" It is submitted that though the post of driver at S.I.S.I., Allahabad is of a permanent nature, it does not entitle the petitioner to be made permanent, since there is a freeze on fresh appointment, the petitioner can not claim to be appointed on regular basis."

5. Learned counsel for the applicant has submitted that services of petitioner have been terminated in arbitrary exercise of power without any rhyme and reason. He has placed before us averments contained in paragraph 4(xi) and 4(x) in which it has been asserted that work and conduct of the applicant has been unquestionable. There was no adverse complaint against him. It has also been averred that since post is continuing, his services could not be terminated and if the impugned order is not quashed, it shall only give an opportunity to the respondents to appoint somebody of their choice. It has also been submitted that if post is allowed to be



advertised again, petitioner shall be over age and he shall be rendered unemployed for ever.

6. Kumari Sadhna Srivastava, counsel for the respondents on the other hand submitted that the order of termination does not suffer from any illegality. No arbitrariness is involved. The appointment of the applicant beyond six months could not be continued as freeze against regular appointment is still continuing.

7. Both the learned counsel have also cited some authorities in support of their submissions. However, in the peculiar facts and circumstances of the present case, in our opinion, they are not very relevant for resolving the controversy in hand.

8. We have carefully considered the submissions of the learned counsel for the parties and also material on record. It is undisputed that petitioner is serving on the post as Driver since 1997. There was no complaint against his work and conduct. In response to the advertisement, he participated in selection and he was duly selected for fresh appointment. The advertisement was for regular selection. However intervening factor of freeze against the regular appointment came in his way and he could not be appointed on regular basis. The freeze against regular appointment, in our opinion, is a sort of ^{economy} measure to meet the extra financial burden during the election period. That situation or that ^{contingency} is now over. Even if the economy measure adopted are continuing it shall not be just and proper to deprive the

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petitioner of his job for this reason as he established himself ~~over~~ ^{as} regular selection before the Selection Committee. In these facts and circumstances the balanced approach would/to sustain the order for the period. the freeze against the regular appointment is continued by the Government as it is the only reason assigned in the counter affidavit for terminating the petitioner from service though he had been selected for regular appointment. It is also not disputed that post is permanent and somebody will be required to work on this post.

9. For the reasons stated above, we dispose of this application with the direction that order dated 12.1.2000 (Annexure -1) to the petition shall remain valid only till the freeze against regular appointment is continued by the Government. In other words, the applicant shall be entitled to be re-instated on the post from the day, the freeze against the regular appointment is lifted by the Government. There will be no order as to costs.



A.M.



V.C.

Nafees.