

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH : ALLAHABAD

ORIGINAL APPLICATION NUMBER 455 OF 2002

ALLAHABAD THIS THE 26th DAY OF MARCH, 2003

HON'BLE MRS. MEERA CHHIBBER, MEMBER (J)

Radhey Shyam Yadav,
s/o Shri Ram Jeet Yadav,
r/o village Dilawarpur,
Madiahun, District-Jaunpur.

.....Applicant

(By Advocate : Shri N.C. Srivastava)

V E R S U S

1. Navodaya Vidhyalaya Samiti,
New Delhi through its Director.
2. Deputy Director Navodaya Vidhyalaya Samiti,
Regional Office 10-V Sector-C, Aliganj,
Lucknow. Pin Code-226 024.
3. Chairman, Jawahar Navodaya Vidhyalaya,
Madiahun District-Jaunpur,
District Magistrate-Jaunpur.
4. Principal, Jawahar Navodaya Vidhyalay Madiahun,
District-Jaunpur.

.....Respondents

(By Advocate : Shri V. Swaroop)

O R D E R

By this O.A. applicant has sought the following
reliefs:-

- "(a) to quash the impugned order dated
25.01.2002 passed by the respondent
No.2 (Annexure-6)
- (b) to issue a direction to the respondent No.2
to appoint the applicant as Class IVth
employees at any Jawahar Navodaya
Vidhyalaya where the post of Class IVth
employees is vacant.
- (c) to issue any other suitable and equitable
order or direction which this Hon'ble
Tribunal may deem fit and proper in the
circumstances of the present case."



.....2/-

2. It is submitted by the applicant's counsel that when applicant had approached earlier this Tribunal by filing O.A. No. 02 of 2000, the Tribunal vide its order dated 27.11.2001 had given liberty to the applicant to make an application to Deputy Director/^{Jawahar}Navodaya Vidhyala Samiti, Lucknow for continuing the applicant on another post, which may be considered and decided in accordance with law by a reasoned order within 3 months (Pg.17). Thereafter, the Deputy Director issued an order on 25.01.2002 stating therein that pursuant to the direction of the Tribunal, applicant's case has been considered but since there is no vacant post in Gr. 'D', it is not possible to engage the applicant (Pg. 12). It is this order, which has been challenged by the applicant in this O.A. and he has submitted that on 25.01.2002 itself a vacancy had arisen in Navodaya Vidhyalaya at Madiahun District Jaunpur in as much as another person Shri Ajimuddin was transferred from Jaunpur to Biznore (Pg.23). Thereafter, it is submitted by the applicant's counsel that the impugned order is not sustainable in law as the reasoning given is not correct.

3. The respondents have opposed the O.A. and have submitted that as ~~far~~ as the applicant's claim for ~~such~~ regularisation is concerned that was already decided in the earlier O.A. as the Tribunal had categorically held ^{as under B} that "His engagement was purely on daily wages and learned counsel for the applicant has not been able to place any rule or regulation under which the applicant could be regularised

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on the basis of the services already rendered and mentioned by him. Therefore, applicant is not entitled for the relief as claimed by him.^y It was only a passing reference ^{He observed that B} ~~that~~ the Tribunals had ~~that~~ in case there are post available as mentioned by the applicant then he may make an application which shall be decided by the Deputy Director within the stipulated period. They have further explained that there are two posts of Chowkidar against which two regularly appointed Chowkidars are already working namely Shri Subhash Chandra Tripathi since 08.03.2000 and even though Shri Azmuddin was transferred from J.N.V., Jaunpur but he was relieved by the Principal only on 01.04.2002. Shri Ram Pal Bajpai came on transfer as Chowkidar in J.N.V., Jaunpur. As such there is no vacant post of Chowkidar in J.N.V., Jaunpur. They have thus submitted that this O.A. may be dismissed with costs.


4. I have heard both the counsel and perused the pleadings as well.

5. The position as stated by the respondents in paragraph 12 has not ^{been} controverted by the applicant in his rejoinder nor he is ~~not~~ able to show that there was any other vacant post available with the respondents on which the applicant could be engaged. In case, there was a newly sanctioned post that would obviously ^{be B} for regular employee and applicant who was working as a daily wager cannot have



any right to claim re-engagement on such post as a daily
wager. In any case, applicant's claim for regularisation
was already turned down by the Tribunal in the earlier O.A.
Therefore, no case has been made out by the applicant and
no interference is required by the Tribunal again. The

therefore
6. ~~With the above directions~~, the O.A. is dismissed
with no order as to costs.



Member (J)

shukla/-