

RESERVED

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

ORIGINAL APPLICATION NUMBER 144 OF 2003
ALLAHABAD, THIS THE 22nd DAY OF December, 2004

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

Shri Suresh Yadav s/o Late Ram Prasad Singh,
r/o Village Ramnathpur, P.O. Gosandeypur,
District-Ghazipur.

.....Applicant

(By Advocate : Shri K.S. Rathore)

V E R S U S

1. Union of India through Secretary, Ministry of Finance, New Delhi.
2. The Chief Controller, Govt. Opium & Alkaloid Factory, 10-C, Murar, Gwalior, M.P.
3. The Commissioner, Narcotics, 19, Mall Road, Murar, Gwalior, M.P.
4. The General Manager, Govt. Opium & Alkaloid Works, Ghazipur.

.....Respondents

(By Advocate : Shri Saumitra Singh)

O R D E R

By this O.A. applicant has sought the following relief(s):-

- " a. an order or direction to quash order dated 29/05/2002 passed by respondent No.4.
- b. A writ, order direct the respondent No.2 to provide appointment to the applicant as Category 'D' employee in the respondents workshop/office. "

2. It is submitted by the applicant that his father died on 03.10.1999 while in service. Her mother gave an application

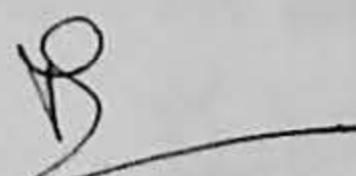
....2/-

3/-

for compassionate appointment as LDC or in Narcotics department but the same was rejected on 04.01.1994. Being aggrieved, applicant filed O.A. No. 312/94. During the pendency of the said O.A. mother of the applicant was informed vide letter dated 15.09.1999 that case of applicant can be considered for casual labourer provided. He withdrew the case pending in the Tribunal (Pg.19). Accordingly, O.A. No.312/1994 was disposed off on 09.01.2000 with a direction to respondent No.5 General Manager, Govt. Opium & Alkaloid Factory, Ghazipur to consider the case of applicant to appoint him on suitable post and pass appropriate orders thereon within 3 months from the date of communication of the order (Pg.24).

3. It is submitted by the applicant that inspite of this direction, he was not given any appointment so applicant filed contempt petition No.19/01 wherein counsel for the respondent No.4 made a statement that applicant had already been provided appointment but since he has not joined, therefore, contempt petition may be dismissed. It was in view of the statement made by the respondents counsel that contempt petition was dismissed on 06.02.2001.

4. Grievance of the applicant is that even though respondents gave statement before the court that appointment has been given to the applicant but infact no appointment was given to the applicant. Being aggrieved applicant filed Writ Petition No.2888/02 but the same was dismissed as withdrawn on 21.01.2002. Applicant therefore, once again filed application for appointment for respondent No.4, which was rejected on 29.05.2002 by stating that since applicant had not joined pursuant to the offer given to him to join as Seasonal Labour, he cannot now asked for appointment. It is this letter, which has challenged by the applicant in the



present O.A.

5. Counsel for the applicant strenuously argued that since respondents had given a statement before the court that applicant has been appointed, therefore, they should be directed to give him a regular appointment and not merely a Seasonal Labour.

6. Respondents have stated that pursuant to the directions given by this Tribunal, petitioner was appointed as Seasonal Labour vide letter dated 04.12.2000 but applicant did not join his duties and that is why his contempt petition was also dismissed and even his Writ Petition was dismissed as withdrawn. Therefore, now he cannot be allowed to claim his appointment as he is waisting the time of not only the respondents but of Hon'ble Court as well.

7. I have heard counsel for both the parties and perused the pleadings as well.

8. It is seen that respondents had issued letter dated 04.12.2000 giving appointment to the applicant as a Seasonal Labourer, which is annexed as Annexure CA-2 with the counter affidavit but applicant did not join that was also the reason why contempt petition was dismissed on 06.02.2001. The order passed in contempt petition was challenged by the applicant by filing Writ Petition ^{No. 2888/02} before the Hon'ble High Court of Judicature of Allahabad but even the same was dismissed as withdrawn. Therefore, the order passed in the contempt petition has attained the finality. After all a person who states that he is in totally indigent condition should have accepted the work whatever was being given to him and in case he felt that he should have been given regular appointment he could always have accepted the work of Seasonal Labour under protest not accepting the work so that



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applicant was trying to be a chooser which cannot be permitted and it only shows that applicant was not really in an indigent condition otherwise, he would have joined the work whichever is being offered to him. In these circumstances, we cannot allow the contention of applicant nor can we find any illegality in the orders passed by the respondents. The O.A. is accordingly dismissed with no order as to costs.



Member (3)

shukla/-