

OPEN COURT

CENTRAL ADMINISTRATIVE TRIBUNAL
ALLAHABAD BENCH
ALLAHABAD

Dated : This the 17TH day of MARCH 2005

Original Application no. 1463 of 2003

Hon'ble Mr. Justice S.R. Singh, Vice-Chairman
Hon'ble Mr. D.R. Tiwari, Member (A)

Prem Nath Tiwari, S/o Sri R.K. Tiwari,
R/o 148-A, Rasoolabad,
ALLAHABAD

...Applicant

By Adv : Sri A. Srivastava

V E R S U S

1. Union of India through Secretary,
Ministry of Defence, Govt. of India,
NEW DELHI.
2. Chief Engineer, Central Command,
LUCKNOW.
3. Commander Works Engineer,
Military Engineering Service,
ALLAHABAD.
4. Assistant Garrison Engineer, E/M,
MANRAULI.

...Respondents

By Adv : Sri S. Singh

O R D E R

By Justice S.R. Singh, VC.

The applicant herein was engaged as Casual Personnel in Military Engineering Services under Asstt. Garrison Engineer E/M, Bamrauli in the year 1980 and had worked from time to time for a total number of 595 working days till he was disengaged in the year 1983. The applicant instituted the OA No. 146/93 for direction to the respondents to post him applicant as Motor Pump Assistant on which post he had earlier worked on casual basis and to pay him

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entire back wages and other consequential benefits. The Tribunal disposed of the said OA vide its orders dated 12.9.2000 with direction to the Commander Works, Military Engineering Services, Allahabad to consider the representation of the applicant dated 18.5.1995 in the light of the Govt. order of 1988 and 1993. The representation of the applicant came to be rejected by a speaking order dated 11.12.2000 which was cancelled and a fresh speaking order was passed on 16.8.2001 which is impugned herein (Ann A7).

2. A perusal of the impugned order would indicate that pursuant to the letter dated 26.11.1993 of Engineer-in-Chief branch sent a proposal was sent to the Ministry of Defence to consider the case of the casual workers who had put in 240 days of service. The Ministry of Defence, it would appear from the impugned order, rejected the proposal as indicated by Chief Central Command, Lucknow, letter No. 901407/1/1578/E 1-C(2)dated 30.5.1994 on the premises that casual personnel who had been discharged prior to issue of Govt. of India OM no. 49014/2/86-Estt (C)dated 07.06.1988 are not to be considered for regularization. The decision of Ministry of Defence as contained in the above mentioned letter of Chief Central Command, Lucknow was never questioned by the applicant.

3. Sri A. Srivastava, learned counsel for the applicant, however, submits that in the earlier OA instituted by the applicant the above mentioned decision of Ministry of Defence as indicated by Chief Central Command, Lucknow vide letter dated 30.5.1994 was not brought to the notice of the Tribunal and, therefore, the applicant ought to be given the benefit of letter dated 26.11.1993 of Engineer-in-Chief. The said letter dated 26.11.1993 has not been brought on record.

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4. As pointed out herein above the proposal for regularization sent pursuant to the letter dated 26.11.1993 having been turned down by Ministry of Defence in respect of those casual personnels who had been discharged prior to issue of Govt. of India OM no. 7.6.1988 were not to be considered, it is not possible to issue any direction to the respondents to consider the applicant and to regularize his services merely on the strength of the letter dated 26.11.1993. It may be pertinently observed that there is an element of policy matter in the decision taken by the Ministry of Defence intimated by Chief Central Command, Lucknow vide letter dated 30.5.1994 that those casual personnels who had been discharged prior to 7.6.1988 would not be considered for regularization. The applicant herein was admittedly discharged prior to 7.6.1988 and in view of the policy decision he was not entitled to be considered for regularization.

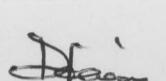
5. The learned counsel for the applicant, Sri A. Srivastava, then placed reliance on the decision of the Tribunal in OA no. 1100 of 1998 Sri Radhey Shyam Vs. Union of India & Ors in support of his contention that the applicant was entitled to be regularized in view of the letter dated 26.11.1993. In para 8 of the said judgment there is a reference of letter dated 26.11.1993 of Engineer-in-Chief branch and it has been observed that in the light of the said order the case of the applicant therein ought to be considered by the CWE, Allahabad on any vacancy which were released after the date of the said letter. The decision relied on by the learned counsel for the applicant is of no avail in as much as the Govt. decision contained in Chief Central Command, Lucknow letter dated 30.5.1994 was not brought to the notice of the Tribunal in OA no. 1100

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of 1998 and mere fact that the applicant was not aware of the said letter is of no consequence.

6. In the light of the above discussion, we find no merit in the OA and the same is dismissed.

7. There shall be no order as to costs.


Member (A)


Vice-Chairman

/pc/