

CENTRAL ADMINISTRATIVE TRIBUNAL

ALLAHABAD BENCH : ALLAHABAD

Original Application No. 285 of 2003

Tuesday, this the 27th day of May, 2003

Hon'ble Maj. Gen. K.K. Srivastava, A.M.

Hon'ble Mr. A.K. Bhatnagar, J.M.

Sri Krishna Verma,
son of Shri Harpal Verma,
R/o Bunglow No.17 D.L.W. Varanasi.

.... Applicant.

(By Advocate : Shri L.M. Singh)

Versus

1. Union of India,
through the General Manager,
D.L.W. Varanasi.
2. General Manager (P)
D.L.W. Varanasi.

... Respondents.


(By Advocate : Shri K.P. Singh)

ORDER (ORAL)

By Hon'ble Maj. Gen. K.K. Srivastava, A.M. :

In this OA filed under Section 19 of A.T. Act, 1985, the applicant has prayed for quashing the order dated 24.7.2002 (Annexure- 1) by which he has been posted on the post of Safaiwala under the Senior Storage Officer, Kolkata. The applicant has prayed that a direction be issued to the respondent to post him on the post of Khalasi/Mali for which he has been given willingness on 15.6.2002. In alternate the applicant has requested for posting in any other Group 'D' post except Safaiwala at Varanasi.

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2. The applic^h_ant was serving as Bunglow Peon in the respondents' establishment. He was served with a memo of charge dated 22.8.1997 for remaining absent without leave for 15.7.1997 to 21.8.1997. The disciplinary authority passed the punishment order dated 2.12.1997 awarding the penalty for dismissal from service. The appell^a_nate authority confirmed the punishment order. The applic^a_ant, aggrieved by the same, filed the OA No.25/01 which was decided by order of this Tribunal dated 16.1.2002 by passing the following order :-

" The OA is accordingly allowed. Though the order of punishment dated 2.12.1997 and 30.4.1998 are being maintained so far as they hold the applic^a_ant guilty of misconduct. However, the punishment awarded is quashed it shall stand substituted by penalty of withholding of two increments a period of one year without cumulative effect. The applic^a_ant shall be immediately reinstated on the post and the period for which the applic^a_ant has been out of service in pursuance of the impugned order, he shall be treated in service but he shall be entitled for 50% of the wages when shall be paid to him within a period of three months from the date of communication of this order. The OA is decided accordingly."

3. Shri L.M. Singh, learned counsel for the applic^a_ant submitted that when the respondents did not comply with the order, the applic^a_ant filed contempt petition No.109/02. However, the contempt proceedings were dropped and notices were discharged by order of this Tribunal dated 15.11.2002. The learned counsel for the applic^a_ant submitted that the applic^a_ant was pressurised to give his willingness to work ^{post} on any Class 4th ^{post} in the Storage Department, Civil Engineering Department or Gardener. The applic^a_ant was offered the post of Safaiwala in Kolkata which has been accepted by him and he has joined the said post. The learned counsel

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submitted that as per the order of this Tribunal dated 16.1.2002, the applicant should have been reinstated on the post of Bunglow Peon. We have perused the order of this Tribunal dated 15.11.2002 passed in C.P. No.109/02 and we find that the same plea was taken by the applicant in the contempt petition.

4. Shri K.P. Singh, learned counsel for the respondents^{in be} opposing the claim of the applicant submitted that he cannotⁿ be reinstated as Bunglow Peon because the officer with whom he was working as Bunglow Peon has already been transferred. The applicant has himself given the willingness to work on any post of Group 'D'. The post of Safaiwala was offered to him and the applicant joined on that post at Kolkata.

5. Aggrieved by the action of the respondents the applicant has filed the representation dated 14.11.2002 (~~Annexure-4~~) requesting the G.M.P., D.L.W Varanasi for posting of the applicant as Khalasi^h or any other Group 'D' post except that of Safaiwala in his establishment because the applicant by profession is not a Safaiwala. The applicant has also pleaded in his representation that he belongs to General Category and that number of Group 'D' posts are lying vacant in the respondents' establishment i.e. D.L.W. Varanasi.

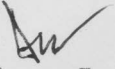
6. In our considered opinion, the interest of Justice shall better be served if the representation of the applicant dated 14.11.2002 is decided by respondent No.2 by reasoned and speaking order within a specified time. We hope that the respondent No.2 while deciding the

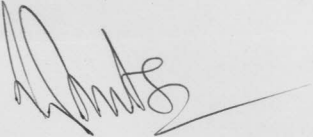


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representation of the applicant shall consider all the factors in mind.

7. In the facts and circumstances, we dispose of this OA at the admission stage itself with direction to respondent No.2 to decide the representation of the applicant dated 14.11.2002 within a period of two months. No costs.


Member-J


Member-A

RKM/