

IN THE CENTRAL ADMINISTRATIVE TRIBUNAL, JODHPUR BENCH, JODHPUR.

O.A. No.263/96

Date of Order: 13.10.1998

Fakhruddin (Ex-serviceman) s/o Shri Sadule Khan, r/o Mohalla Kuchipura, Kayamkhni-ki-masjid-ke-pass, Bikaner, at present employed on the post of Casual Labour (TS) in the office of National Research Centre, on Camel Jorebere P.B. No.7, Bikaner.

... Applicant

VERSUS

1. Indian Council Agriculture Research through its Secretary, Krishi Bhawan, New Delhi-1.
2. The Director, National Research Centre of Camel, Jorber Breed, Shiv Bari, Bikaner.
3. Shri Ajmoda Ram s/o Shri Dunga Ram, Group 'D' (SSG) in the office of Director, National Research Centre of Camel, Jorber Breed, Shiv Bari, Bikaner.

... Respondents

Mr. J.K. Kaushik, Counsel for the applicant.

Mr. A.K. Chhangani, Counsel for the respondents Nos. 1 & 2.

None present for respondent No.3.

CORAM:

Hon'ble Mr. A.K. Misra, Judicial Member

Hon'ble Mr. Gopal Singh, Administrative Member

O R D E R

Per Hon'ble Mr. Gopal Singh

Applicant, Fakhruddin, has filed this application under Section 19 of the Administrative Tribunals Act, 1985, praying for a direction to the official respondents to regularise the services of the applicant in group D post right from initial date of his appointment and further to consider his candidature for group C post against Ex-serviceman quota.

Gopal Singh

2. Applicant's case is that he had served the Indian Army from 27.8.1965 to 31.8.1987 and on fulfilment of terms of engagement for the post of Hawaldar he was discharged. The applicant got his name registered with the local Employment Exchange and his name was sponsored by the exchange to the office of second official respondent for appointment in group D post. He joined the said post on 1.12.1989 in terms of offer of appointment dated 28.5.1989. The applicant was granted temporary status w.e.f. 1.9.1993 vide the official respondents letter dated 20.1.1995 (Annex. A/5). That the applicant had submitted a representation dated 11.7.1995 for regularising his services in group D cadre. This representation was rejected by the official respondents vide their letter dated 19.8.1995 (Annex. A/1). Aggrieved by this action of the respondents, the applicant has approached this Tribunal.

3. Notices were issued to the respondents and they have filed their reply.

4. In their reply the official respondents have submitted that the applicant was provided appointment on daily wages basis and not against the permanent post. It has also been pointed out by the official respondents that it was very clearly mentioned in the offer of appointment dated 28.5.1989 that the casual worker assignment is purely temporary assignment and will not confirm any right on him to claim for regular appointment.

5. We have heard the learned counsel for the parties and perused the records of the case carefully.

Ex parte

6. The only argument put forth by the official respondents for not entertaining the claim of the applicant for regularisation in group D post is that he cannot claim for regularisation in view of the terms and conditions of his appointment letter dated 28.5.1989 (Annex. A/4). ^{But in our opinion} such an unreasonable conditions in the offer of appointment cannot be treated as binding on the applicant for all times to come and as such this argument of the official respondents is not tenable. It is seen from the application that the applicant's name was sponsored by the Employment Exchange ~~to~~ the office of the official respondents for appointment against group D post and the applicant accepted all the terms and conditions mentioned in the offer of appointment dated 28.5.1989 as he was in great need of employment. The applicant had joined the services under the official respondents on 1.12.1989 and till date he is working as a temporary status casual worker. The assertion of the official respondents that in terms of the Council rules and regulations the services of the applicant cannot be regularised. It is almost 9 years that the applicant is continuing as temporary casual worker. It is also seen that the Council has been appointing people on regular basis in group D post. It looks very strange that the applicant is being kept as temporary casual worker for last 9 years. We do not find this action of the official respondents as justified. Since the applicant has been working for last 9 years in group D post, there must have existed a post in group D cadre against which he is working. Moreover, the applicant has been seeking regularisation on group D post under reservation for Ex-serviceman quota. On the representation made by the applicant for regularisation of his services on group D post considering him as Ex-serviceman, the

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official respondents have only conveyed to the applicant that his representation is not acceptable. It has nowhere been clarified by the official respondents that no post under Ex-serviceman quota is available in their organisation. In fact the official respondents have not come out with precise rules and regulations for fillingup various posts in the Council. They have simply stated that all appointments in the Council are being made as per rules. This argument of the official respondents is not tenable, in view of various Government of India instructions regarding reservation for Ex-serviceman.

7. In the light/what has been discussed above, we find much force in the application and the same deserves to be allowed.

8. The O.A. is accordingly allowed with a direction to the official respondents to consider appointment of the applicant on a group D post on regular basis right from the date he joined the services under them within a period of three months from the date of issue of this order and also consider him for further promotion as per rules regarding reservation for Ex-serviceman and as per his eligibility.

9. Parties are left to bear their own costs.

Gopal Singh
(Gopal Singh)
Administrative Member

AM
13/1/1996
(A.K. Misra)
Judicial Member

Aviator/